WORKERS' COMPENSATION TREATMENT PARAMETER RULES
TABLE OF CONTENTS

5221.6010 AUTHORITY.

Parts 5221.6010 to 5221.8900 are adopted under the authority of Minnesota Statutes, sections 176.83, subdivisions 1, 3, 4, and 5, and 176.103, subdivision 2.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6020 PURPOSE AND APPLICATION.

Subpart 1. **Purpose.** Parts 5221.6010 to 5221.6600 establish parameters for reasonably required treatment of employees with compensable workers' compensation injuries to prevent excessive services under Minnesota Statutes, sections 176.135 and 176.136, subdivision 2. Parts 5221.6010 to 5221.6600 do not affect any determination of liability for an injury under Minnesota Statutes, chapter 176, and are not intended to expand or restrict a health care provider's scope of practice under any other statute.

Subp. 2. **Application.** All treatment must be medically necessary as defined in part 5221.6040, subpart 10. In the absence of a specific parameter, any applicable general parameters govern. A departure from a parameter that limits the duration or type of treatment may be appropriate in any one of the circumstances specified in part 5221.6050, subpart 8. Parts 5221.6010 to 5221.6600 apply to all treatment provided after January 4, 1995, regardless of the date of injury. All limitations on the duration of a specific treatment modality or type of modality begin with the first time the modality is initiated after January 4, 1995. However, consideration may be given to treatment initiated under the emergency rules (parts 5221.6050 to 5221.6500 **Emergency**). Parts 5221.6010 to 5221.6600 do not apply to treatment of an injury after an insurer has denied liability for the injury. However, in such cases the rules do apply to treatment initiated after liability has been established. References to days and weeks in parts 5221.6050 to 5221.6600 mean calendar days and weeks unless specified otherwise.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6030 INCORPORATION BY REFERENCE.

The ICD-9-CM diagnostic codes referenced in parts 5221.6010 to 5221.6600 are contained in the fourth edition of the International Classification of Diseases, Clinical Modification, 9th Revision, 1994, and corresponding annual updates. This document is subject to annual revisions and is incorporated by reference. It is published by the United States Department of Health and Human Services, Health Care Financing Administration, and may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. It is available through the Minitex interlibrary loan system.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6040 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 5221.6010 to 5221.6600 have the meanings given them in this part.

Subp. 2. **Active treatment.** "Active treatment" means treatment specified in parts 5221.6200, subpart 4; 5221.6205, subpart 4; 5221.6210, subpart 4; 5221.6300, subpart 4; and 5221.6305, subpart 2, item C, which requires active patient participation in a therapeutic program to increase flexibility, strength, endurance, or awareness of proper body mechanics.

Subp. 3. **Chronic pain syndrome.** "Chronic pain syndrome" means any set of verbal or nonverbal behaviors that:

A. involve the complaint of enduring pain;
B. differ significantly from the patient's preinjury behavior;
C. have not responded to previous appropriate treatment;
D. are not consistent with a known organic syndrome which has remained untreated; and
E. interfere with physical, psychological, social, or vocational functioning.

Subp. 4. **Condition.** A patient's "condition" means the symptoms, physical signs, clinical findings, and functional status that characterize the complaint, illness, or injury related to a current claim for compensation.

Subp. 5. **Emergency treatment.** "Emergency treatment" means treatment that is:

A. required for the immediate diagnosis and treatment of a medical condition that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death; or
B. immediately necessary to alleviate severe pain.

Emergency treatment includes treatment delivered in response to symptoms that may or may not represent an actual emergency but that is necessary to determine whether an emergency exists.

Subp. 6. **Etiology.** "Etiology" means the anatomic alteration, physiologic dysfunction, or other biological or psychological abnormality which

is considered a cause of the patient's condition.

Subp. 7. **Functional status.** "Functional status" means the ability of an individual to engage in activities of daily living and other social, recreational, and vocational activities.

Subp. 8. **Initial nonsurgical management or treatment**. "Initial nonsurgical management or treatment" is initial treatment provided after an injury that includes passive treatment, active treatment, injections, and durable medical equipment under parts 5221.6200, subparts 3, 4, 5, and 8; 5221.6205, subparts 3, 4, 5, and 8; 5221.6210, subparts 3, 4, 5, and 8; 5221.6300, subparts 3, 4, 5, and 8; and 5221.6305, subpart 2. Scheduled and nonscheduled medication may be a part of initial nonsurgical treatment. Initial nonsurgical management does not include surgery or chronic management modalities under part 5221.6600.

Subp. 9. **Medical imaging procedures.** A "medical imaging procedure" is a technique, process, or technology used to create a visual image of the body or its function. Medical imaging includes, but is not limited to: X-rays, tomography, angiography, venography, myelography, computed tomography (CT) scanning, magnetic resonance imaging (MRI) scanning, ultrasound imaging, nuclear isotope imaging, PET scanning, and thermography.

Subp. 10. **Medically necessary treatment.** "Medically necessary treatment" means those health services for a compensable injury that are reasonable and necessary for the diagnosis and cure or significant relief of a condition consistent with any applicable treatment parameter in parts 5221.6050 to 5221.6600. Where parts 5221.6050 to 5221.6600 do not govern, the treatment must be reasonable and necessary for the diagnosis or cure and significant relief of a condition consistent with the current accepted standards of practice within the scope of the provider's license or certification.

Subp. 11. **Neurologic deficit.** "Neurologic deficit" means a loss of function secondary to involvement of the central or peripheral nervous system. This may include, but is not limited to, motor loss; spasticity; loss of reflex; radicular or anatomic sensory loss; loss of bowel, bladder, or erectile function; impairment of special senses, including vision, hearing, taste, or smell; or deficits in cognitive or memory function.

A. "Static neurologic deficit" means any neurologic deficit that has remained the same by history or noted by repeated examination since onset.

B. "Progressive neurologic deficit" means any neurologic deficit that has become worse by history or noted by repeated examination since onset.

Subp. 12. **Passive treatment.** "Passive treatment" is any treatment modality specified in parts 5221.6200, subpart 3; 5221.6205, subpart 3; 5221.6210, subpart 3; 5221.6300, subpart 3; and 5221.6305, subpart 2, item B. Passive treatment modalities include bedrest; thermal treatment; traction; acupuncture; electrical muscle stimulation; braces; manual and mechanical therapy; massage; and adjustments. Subp. 13. **Therapeutic injection.** "Therapeutic injection" is any injection modality specified in parts 5221.6200, subpart 5; 5221.6205, subpart 5; 5221.6210, subpart 5; 5221.6300, subpart 5; and 5221.6305, subpart 2, item A. Therapeutic injections include trigger point injections, sacroiliac injections, facet joint injections, facet nerve blocks, nerve root blocks, epidural injections, soft tissue injections, peripheral nerve blocks, injections for peripheral nerve entrapment, and sympathetic blocks.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6050 GENERAL TREATMENT PARAMETERS; EXCESSIVE TREATMENT; PRIOR NOTIFICATION.

Subpart 1. **General.**

A. All treatment must be medically necessary treatment, as defined in part 5221.6040, subpart 10. The health care provider must evaluate the medical necessity of all treatment under item B on an ongoing basis. Parts 5221.6050 to 5221.6600 do not require or permit any more frequent examinations than would normally be required for the condition being treated, but do require ongoing evaluation of the patient that is medically necessary, consistent with accepted medical practice.

B. The health care provider must evaluate at each visit whether initial nonsurgical treatment for the low back, cervical, thoracic, and upper extremity conditions specified in parts 5221.6200, 5221.6205, 5221.6210, and 5221.6300, is effective according to subitems (1) to (3). No later than any applicable treatment response time in parts 5221.6200 to 5221.6300, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality is resulting in progressive improvement as specified in subitems (1) to (3):

(1) the employee's subjective complaints of pain or disability are progressively improving, as evidenced by

documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

(2) the objective clinical findings are progressively improving, as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of injury; and

(3) the employee's functional status, especially vocational activities, is progressively improving, as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive limitations on activity.

Except as otherwise provided under parts 5221.6200, subpart 3, item B; 5221.6205, subpart 3, item B; 5221.6210, subpart 3, item B; and 5221.6300, subpart 3, item B, if there is not progressive improvement in at least two of subitems (1) to (3), the modality must be discontinued or significantly modified, or the provider must reconsider the diagnosis. The evaluation of the effectiveness of the treatment modality can be delegated to an allied health professional directly providing the treatment, but remains the ultimate responsibility of the treating health care provider who ordered the treatment.

C. The health care provider must use the least intensive setting appropriate and must assist the employee in becoming independent in the employee's own care to the extent possible so that prolonged or repeated use of health care providers and medical facilities is minimized.

Subp. 2. **Documentation.** A health care provider must maintain an appropriate record, as defined in part 5221.0100, subpart 1a, of any treatment provided to a patient.

Subp. 3. **Nonoperative treatment.** Health care providers shall provide a trial of nonoperative treatment before offering or performing surgical treatment unless the treatment for the condition requires immediate surgery, unless an emergency situation exists, or unless the accepted standard of initial treatment for the condition is surgery.

Subp. 4. **Chemical dependency.** The health care provider shall maintain diligence to detect incipient or actual chemical dependency to any medication prescribed for treatment of the employee's condition. In cases of incipient or actual dependency, the health care provider shall refer the employee for appropriate evaluation and treatment of the dependency.

Subp. 5. **Referrals between health care providers.** The primary health care provider directing the course of treatment shall make timely and appropriate referrals for consultation for opinion or for the transfer of care if the primary health care provider does not have any reasonable alternative treatment to offer and there is a reasonable likelihood that the consultant may offer or recommend a reasonable alternative treatment plan. This subpart does not prohibit a referral for consultation in other circumstances based on accepted medical practice and the patient's condition.

A. Referrals from consulting health care provider. If the consultant has reasonable belief that another consultation is appropriate, that consultant must coordinate further referral with the original treating health care provider unless the consultant has been approved as the employee's treating health care provider. The consultant is under no obligation to provide or recommend treatment or further referral, if in the consultant's opinion, all reasonable and necessary treatment has been rendered. The consultant shall in this situation refer the employee back to the original treating health care provider for further follow-up.

B. Information sent to consultant. When a referring health care provider arranges for consultation or transfer of care, except in cases of emergency, the referring health care provider shall, with patient authorization, summarize for the consultant orally or in writing the conditions of injury, the working diagnosis, the treatment to date, the patient's response to treatment, all relevant laboratory and medical imaging studies, return to work considerations, and any other information relevant to the consultation. In addition, the referring health care provider shall make available to the consultant, with patient authorization, a copy of all medical records relevant to the employee's injury.

Subp. 6. **Communication between health care providers and consideration of prior care.**

A. Information requested by new health care provider. Upon accepting for treatment a patient with a workers' compensation injury, the health care provider shall ask the patient if treatment has been previously given for the injury by another health care provider. If the patient reports that treatment has been previously given for the injury by another health care provider and if the medical records for the injury have not been transferred, the new health care provider shall request authorization from the employee for relevant medical records.

Upon receipt of the employee authorization, the new health care provider shall request relevant medical records from the previous health care providers. Upon receipt of the request for medical records and employee authorization, the previous health care providers shall provide the records within seven working days.

B. Treatment by prior health care provider. If the employee has reported that care for an injury has been previously given:
   (1) Where a previous health care provider has performed diagnostic imaging, a health care provider may not repeat the imaging or perform alternate diagnostic imaging for the same condition except as permitted in part 5221.6100.
   (2) When a therapeutic modality employed by a health care provider was no longer improving the employee's condition under subpart 1, item B, or has been used for the maximum duration allowed under parts 5221.6050 to 5221.6600, another health care provider may not employ the same modality at any time thereafter to treat the same injury except if one of the departures applies under subpart 8, after surgery, or for treatment of reflex sympathetic dystrophy under part 5221.6305.
   (3) It is also inappropriate for two health care providers to use the same treatment modality concurrently.

C. Employee refusal. An employee's refusal to provide authorization for release of medical records does not justify repeat treatment or diagnostic testing. An insurer is not liable for repeat diagnostic testing or other duplicative treatment prohibited by this subpart.

Subp. 7. **Determinations of excessive treatment; notice of denial to health care providers and employee; expedited processing of medical requests.**

A. In addition to services deemed excessive under part 5221.0500 and Minnesota Statutes, section 176.136, subdivision 2, treatment is excessive if:
   (1) the treatment is inconsistent with an applicable parameter or other rule in parts 5221.6050 to 5221.6600; or
   (2) the treatment is consistent with the parameters in parts 5221.6050 to 5221.6600, but is not medically necessary treatment.

B. If the insurer denies payment for treatment that departs from a parameter under parts 5221.6050 to 5221.6600, the insurer must provide the employee and health care provider with written notice of the reason for the denial and that the treatment rules permit departure from the parameters in specified circumstances. If the insurer denies authorization for proposed treatment after prior notification has been given under subpart 9, the insurer must provide the employee and health care provider in writing with notice of the reason why the information given by the health care provider does not support the proposed treatment and notice of the right to review of the denial under subpart 9, item C. The insurer may not deny payment for a program of chronic management that the insurer has previously authorized for an employee, either in writing or by routine payment for services, without providing the employee and the employee's health care provider with at least 30 days' notice of intent to apply any of the chronic management parameters in part 5221.6600 to future treatment. The notice must include the specific parameters that will be applied in future determinations of compensability by the insurer.

C. If the insurer denies authorization or payment for treatment governed by parts 5221.6050 to 5221.6600, the health care provider or the employee may request a determination from the commissioner or compensation judge by filing a medical request or petition under chapter 5220 and Minnesota Statutes, sections 176.106, 176.2615, and 176.305. The medical request may not be filed before completion of the managed care plan's dispute resolution process, if applicable. If the health care provider has notified the insurer of proposed treatment requiring prior notification under subpart 9, the health care provider or employee must describe or attach a copy of the notification, and any response from the insurer, to the medical request filed with the department. The insurer may, but is not required to, file a medical response where the insurer's response to prior notification under subpart 9 has been attached to the medical request. If the insurer elects to file a medical response in such cases, it must be received within ten working days of the date the medical request was filed with the department. The commissioner or compensation judge may issue a decision based on written submissions no earlier

than ten working days after receipt of the medical request, unless a medical response has been filed sooner.

D. A determination of the compensability of medical treatment under Minnesota Statutes, chapter 176, must include consideration of the following factors:

(1) whether a treatment parameter or other rule in parts 5221.6050 to 5221.6600 applies to the etiology or diagnosis for the condition;

(2) if a specific or general parameter applies, whether the treatment is consistent with the treatment parameter and whether the treatment was medically necessary as defined in part 5221.6040, subpart 10; and

(3) whether a departure from the applicable parameter is or was necessary because of any of the factors in subpart 8.

Subp. 8. **Departures from parameters.** A departure from a parameter that limits the duration or type of treatment in parts 5221.6050 to 5221.6600 may be appropriate in any one of the circumstances specified in items A to E. The health care provider must provide prior notification of the departure as required by subpart 9.

A. Where there is a documented medical complication.

B. Where previous treatment did not meet the accepted standard of practice and the requirements of parts 5221.6050 to 5221.6600 for the health care provider who ordered the treatment.

C. Where the treatment is necessary to assist the employee in the initial return to work where the employee's work activities place stress on the part of the body affected by the work injury. The health care provider must document in the medical record the specific work activities that place stress on the affected body part, the details of the treatment plan and treatment delivered on each visit, the employee's response to the treatment, and efforts to promote employee independence in the employee's own care to the extent possible so that prolonged or repeated use of health care providers and medical facilities is minimized.

D. Where the treatment continues to meet two of the following three criteria, as documented in the medical record:

(1) the employee's subjective complaints of pain are progressively improving as evidenced by documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

(2) the employee's objective clinical findings are progressively improving, as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of injury; and

(3) the employee's functional status, especially vocational activity, is objectively improving as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive limitations on activity.

E. Where there is an incapacitating exacerbation of the employee's condition. However, additional treatment for the incapacitating exacerbation may not exceed, and must comply with, the parameters in parts 5221.6050 to 5221.6600.

Subp. 9. **Prior notification; health care provider and insurer responsibilities.** Prior notification is the responsibility of the health care provider who wants to provide the treatment in item A. Prior notification need not be given in any case where emergency treatment is required.

A. The health care provider must notify the insurer of proposed treatment in subitems (1) to (4) at least seven working days before the treatment is initiated, except as otherwise provided in subitem (4):

(1) for chronic management modalities where prior notification is required under part 5221.6600;

(2) for durable medical equipment requiring prior notification in parts 5221.6200, subpart 8; 5221.6205, subpart 8; 5221.6210, subpart 8; and 5221.6300, subpart 8;

(3) for any nonemergency inpatient hospitalization or nonemergency inpatient surgery. A surgery or hospitalization is considered inpatient if the patient spends at least one night in the facility; and

(4) for treatment that departs from a parameter limiting the duration or type of treatment in parts 5221.6050 to 5221.6600. The health care provider must notify the insurer within two business days after initiation of treatment if the departure from a parameter is for an incapacitating exacerbation or an emergency.

B. The health care provider's prior notification required by item A may be made orally, or in writing, and shall provide the following information, when relevant:

(1) the diagnosis;

(2) when giving prior notification for chronic management modalities, durable medical equipment, or inpatient hospitalization or surgery required by item A, subitems (1) to (3), whether the proposed treatment is consistent with the applicable treatment parameter;

(3) when giving prior notification for treatment that departs from a treatment parameter, or notification of treatment for an incapacitating exacerbation or emergency, the basis for departure from any applicable treatment parameter specified in subpart 8; the treatment plan, including the nature and anticipated length of the proposed treatment; and the anticipated effect of treatment on the employee's condition.

C. The insurer must provide a toll-free facsimile and telephone number for health care providers to provide prior notification. The insurer must respond orally or in writing to the requesting health care provider's prior notification of proposed treatment in item A within seven working days of receipt of the request. Within the seven days, the insurer must either approve the request, deny authorization, request additional information, request that the employee obtain a second opinion, or request an examination by the employer's physician. A denial must include notice to the employee and health care provider of the reason why the information given by the health care provider in item B does not support the treatment proposed, along with notice of the right to review of the denial under subitem (3).

(1) If the health care provider does not receive a response from the insurer within the seven working days, authorization is deemed to have been given.

(2) If the insurer authorizes the treatment, the insurer may not later deny payment for the treatment authorized.

(3) If the insurer denies authorization, the health care provider or employee may orally or in writing request that the insurer review its denial of authorization.

The insurer's review of its denial must be made by a currently licensed registered nurse, medical doctor, doctor of osteopathy, doctor of chiropractic, or a person credentialled by a program approved by the commissioner of Labor and Industry. The insurer may also delegate the review to a certified managed care plan under subpart 10. In lieu of or in addition to the insurer's review under this subitem, the insurer may request an examination of the employee under subitem (4), (5), or (6) and the requirements of those subitems apply to the proposed treatment. Unless an examination of the employee is requested under subitem (4), (5), or (6), the insurer's determination following review must be communicated orally or in writing to the requestor within seven working days of receipt of the request for review.

Instead of requesting a review, or if the insurer maintains its denial after the review, the health care provider or the employee may file with the commissioner a medical request or a petition for authorization of the treatment under subpart 7, item C, or except as specified in subitem (4), (5), or (6), may proceed with the proposed treatment subject to a later determination of compensability by the commissioner or compensation judge.

(4) If the insurer requests an examination of the employee by the employer's physician, the health care provider may elect to provide the treatment subject to a determination of compensability by the commissioner or compensation judge under subpart 7, item B. However, the health care provider may not provide nonemergency surgery where the insurer has requested an examination for surgery except as provided in subitems (5) and (6), and may not provide continued passive care modalities where prior approval by the insurer, commissioner, or compensation judge is required under parts 5221.6200, subpart 3, item B, subitem (2); 5221.6205, subpart 3, item B, subitem (2); 5221.6210, subpart 3, item B, subitem (2); and 5221.6300, subpart 3, item B, subitem (2).

(5) If prior notification of surgery is required under item A, subitem (3), the insurer may require that the employee obtain a second opinion from a physician of the employee's choice under Minnesota Statutes, section 176.135, subdivision 1a. If within seven working days of the prior

notification the insurer notifies the employee and health care provider that a second opinion is required, the health care provider may not perform the nonemergency surgery until the employee provides the second opinion to the insurer. Except as otherwise provided in parts 5221.6200, subpart 6, items B and C; 5221.6205, subpart 6, items B and C; 5221.6300, subpart 6, item B; and 5221.6305, subpart 3, item B, if the insurer denies authorization within seven working days of receiving the second opinion, the health care provider may elect to perform the surgery, subject to a determination of compensability by the commissioner or compensation judge under subpart 7.

(6) In any case where prior notification of proposed surgery is required, the insurer may elect to obtain an examination of the employee by the employer's physician under Minnesota Statutes, section 176.155, sometimes referred to as an "independent medical examination." If the insurer notifies the employee and health care provider of the examination within seven working days of the provider's notification, the proposed nonemergency surgery may not be provided pending the examination. However, after 45 days following the insurer's request for an examination, the health care provider may elect to proceed with the surgery, subject to a determination of compensability by the commissioner or compensation judge under subpart 7.

(7) The insurer's request for additional information must be directed to the requesting health care provider and must specify the additional information required that is necessary to respond to the health care provider's notification of proposed treatment. The proposed treatment may not be given until the provider provides reasonable additional information. Once the additional information has been received, the insurer must respond within seven working days according to subitems (1) to (6).

Subp. 10. **Certified managed care plans.** The insurer may delegate responsibility for the notices required in subpart 7, item B, and the response to prior notification under subpart 9, to the certified managed care plan with which the insurer has contracted to manage the employee's medical treatment under Minnesota Statutes, section 176.135, subdivision 1f. Alternatively, the managed care plan may act as an intermediary between the treating health care provider and the insurer. In either case, the notices and time periods in subparts 7, 8, and 9 also apply to the managed care plan. Where the insurer has delegated responsibility to the managed care plan, the insurer may not later deny treatment authorized by the plan.

Subp. 11. **Outcome studies.** The commissioner shall perform outcome studies on the treatment modalities in parts 5221.6200 to 5221.6600. The modalities to be studied shall be selected in consultation with the Workers' Compensation Medical Services Review Board. The commissioner may require health care providers who use these modalities to prospectively gather and report outcome information on patients treated, with necessary consent of the employee. The health care providers shall report the outcome information on the modalities in parts 5221.6200 to 5221.6600 on a form prescribed by the commissioner, which may include:

A. the name of the health care provider;

B. the name of the patient, date of injury, date of birth, gender, and, with patient permission, level of education and social security number;

C. the name of the workers' compensation insurer and managed care plan, if any;

D. the pretreatment and posttreatment employment status;

E. the nature of treatment given before and after the treatment being studied for the same condition;

F. the diagnosis, symptoms, physical findings, and functional status before and after the treatment being studied for the same condition; and

G. the presence or absence of preexisting or concurrent conditions.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6100 PARAMETERS FOR MEDICAL IMAGING.

Subpart 1. **General principles.** All medical imaging must comply with items A to E. Except for emergency evaluation of significant trauma, a health care provider must document in the medical record an appropriate history and physical examination, along with a review of any existing medical records and laboratory or imaging studies regarding the patient's condition, before ordering any imaging study.

A. Effective imaging. A health care provider

should initially order the single most effective imaging study for diagnosing the suspected etiology of a patient's condition. No concurrent or additional imaging studies should be ordered until the results of the first study are known and reviewed by the treating health care provider. If the first imaging study is negative, no additional imaging is indicated except for repeat and alternative imaging allowed under items D and E.

B. Appropriate imaging. Imaging solely to rule out a diagnosis not seriously being considered as the etiology of the patient's condition is not indicated.

C. Routine imaging. Imaging on a routine basis is not indicated unless the information from the study is necessary to develop a treatment plan.

D. Repeat imaging. Repeat imaging, of the same views of the same body part with the same imaging modality is not indicated except as follows:

(1) to diagnose a suspected fracture or suspected dislocation;

(2) to monitor a therapy or treatment which is known to result in a change in imaging findings and imaging of these changes are necessary to determine the efficacy of the therapy or treatment; repeat imaging is not appropriate solely to determine the efficacy of physical therapy or chiropractic treatment;

(3) to follow up a surgical procedure;

(4) to diagnose a change in the patient's condition marked by new or altered physical findings;

(5) to evaluate a new episode of injury or exacerbation which in itself would warrant an imaging study; or

(6) when the treating health care provider and a radiologist from a different practice have reviewed a previous imaging study and agree that it is a technically inadequate study.

E. Alternative imaging.

(1) Persistence of a patient's subjective complaint or failure of the condition to respond to treatment are not legitimate indications for repeat imaging. In this instance an alternative imaging study may be indicated if another etiology of the patient's condition is suspected because of the failure of the condition to improve.

(2) Alternative imaging is not allowed to follow up negative findings unless there has been a change in the suspected etiology and the first imaging study is not an appropriate evaluation for the suspected etiology.

(3) Alternative imaging is allowed to follow up abnormal but inconclusive findings in another imaging study. An inconclusive finding is one that does not provide an adequate basis for accurate diagnosis.

Subp. 2. **Specific imaging procedures for low back pain.** Except for the emergency evaluation of significant trauma, a health care provider must document in the medical record an appropriate history and physical examination, along with a review of any existing medical records and laboratory or imaging studies regarding the patient's condition, before ordering any imaging study of the low back.

A. Computed tomography (CT) scanning is indicated any time that one of the following conditions is met:

(1) when cauda equina syndrome is suspected;

(2) for evaluation of progressive neurologic deficit; or

(3) when bony lesion is suspected on the basis of other tests or imaging procedures.

Except as specified in subitems (1) to (3), CT scanning is not indicated in the first eight weeks after an injury.

Computed tomography scanning is indicated after eight weeks if the patient continues with symptoms and physical findings after the course of initial nonsurgical care and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities.

B. Magnetic resonance imaging (MRI) scanning is indicated any time that one of the following conditions is met:

(1) when cauda equina syndrome is suspected;

(2) for evaluation of progressive neurologic deficit;

(3) when previous spinal surgery has been performed and there is a need to differentiate scar due to previous surgery from disc herniation, tumor, or hemorrhage; or

(4) suspected discitis.

Except as specified in subitems (1) to (4), MRI scanning is not indicated in the first eight weeks after an injury.

Magnetic resonance imaging scanning is indicated after eight weeks if the patient continues with symptoms and physical findings after the course of initial

nonsurgical care and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities.

C. Myelography is indicated in the following circumstances:
   (1) may be substituted for otherwise indicated CT scanning or MRI scanning in accordance with items A and B, if those imaging modalities are not locally available;
   (2) in addition to CT scanning or MRI scanning, if there are progressive neurologic deficits or changes and CT scanning or MRI scanning has been negative; or
   (3) for preoperative evaluation in cases of surgical intervention, but only if CT scanning or MRI scanning have failed to provide a definite preoperative diagnosis.

D. Computed tomography myelography is indicated in the following circumstances:
   (1) the patient's condition is predominantly sciatica, and there has been previous spinal surgery, and tumor is suspected;
   (2) the patient's condition is predominantly sciatica and there has been previous spinal surgery and MRI scanning is equivocal;
   (3) when spinal stenosis is suspected and the CT or MRI scanning is equivocal;
   (4) in addition to CT scanning or MRI scanning, if there are progressive neurologic symptoms or changes and CT scanning or MRI scanning has been negative; or
   (5) for preoperative evaluation in cases of surgical intervention, but only if CT scanning or MRI scanning have failed to provide a definite preoperative diagnosis.

E. Intravenous enhanced CT scanning is indicated only if there has been previous spinal surgery, and the imaging study is being used to differentiate scar due to previous surgery from disc herniation or tumor, but only if intrathecal contrast for CT-myelography is contraindicated and MRI scanning is not available or is also contraindicated.

F. Gadolinium enhanced MRI scanning is indicated when:
   (1) there has been previous spinal surgery, and the imaging study is being used to differentiate scar due to previous surgery from disc herniation or tumor;
   (2) hemorrhage is suspected;
   (3) tumor or vascular malformation is suspected;
   (4) infection or inflammatory disease is suspected; or
   (5) unenhanced MRI scanning was equivocal.

G. Discography is indicated when:
   (1) all of the following are present:
      (a) back pain is the predominant complaint;
      (b) the patient has failed to improve with initial nonsurgical management;
      (c) other imaging has not established a diagnosis; and
      (d) lumbar fusion surgery is being considered as a therapy; or
   (2) there has been previous spinal surgery, and pseudoarthrosis, recurrent disc herniation, annular tear, or internal disc disruption is suspected.

H. Computed tomography discography is indicated when:
   (1) sciatica is the predominant complaint and lateral disc herniation is suspected; or
   (2) if appropriately performed discography is equivocal or paradoxical, with a normal X-ray pattern but a positive pain response, and an annular tear or intra-annular injection is suspected.

I. Nuclear isotope imaging (including technicium, indium, and gallium scans) are not indicated unless tumor, stress fracture, infection, avascular necrosis, or inflammatory lesion is suspected on the basis of history, physical examination findings, laboratory studies, or the results of other imaging studies.

J. Thermography is not indicated for the diagnosis of any of the clinical categories of low back conditions in part 5221.6200, subpart 1, item A.

K. Anterior-posterior (AP) and lateral X-rays of the lumbosacral spine are limited by subitems (1) and (2).
   (1) They are indicated in the following circumstances:
      (a) when there is a history of significant acute trauma as the precipitating event of the patient's condition, and fracture, dislocation, or fracture dislocation is suspected;
      (b) when the history, signs, symptoms, or laboratory studies indicate possible tumor, infection, or inflammatory lesion;

(c) for postoperative follow-up of lumbar fusion surgery;
(d) when the patient is more than 50 years of age;
(e) before beginning a course of treatment with spinal adjustment or manipulation; or
(f) eight weeks after an injury if the patient continues with symptoms and physical findings after the course of initial nonsurgical care and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities.

(2) They are not indicated in the following circumstances:
(a) to verify progress during initial nonsurgical treatment; or
(b) to evaluate a successful initial nonsurgical treatment program.

L. Oblique X-rays of the lumbosacral spine are limited by subitems (1) and (2).
(1) They are indicated in the following circumstances:
(a) to follow up abnormalities detected on anterior-posterior or lateral X-ray;
(b) for postoperative follow-up of lumbar fusion surgery; or
(c) to follow up spondylolysis or spondylolisthesis not adequately diagnosed by other indicated imaging procedures.
(2) They are not indicated as part of a package of X-rays including anterior-posterior and lateral X-rays of the lumbosacral spine.

M. Electronic X-ray analysis of plain radiographs and diagnostic ultrasound of the lumbar spine are not indicated for diagnosis of any of the low back conditions in part 5221.6200, subpart 1, item A.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6200 LOW BACK PAIN.

Subpart 1. **Diagnostic procedures for treatment of low back injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating distal to the knee, or pain conforming to a dermatomal distribution and accompanied by anatomically congruent motor weakness or reflex changes. This part does not apply to fractures of the lumbar spine, or back pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.
(1) Regional low back pain, includes referred pain to the leg above the knee unless it conforms to an L2, L3, or L4 dermatomal distribution and is accompanied by anatomically congruent motor weakness or reflex changes. Regional low back pain includes the diagnoses of lumbar, lumbosacral, or sacroiliac: strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, spondylosis, and other diagnoses for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the lumbar spine or sacroiliac joints and which effects the lumbosacral region, with or without referral to the buttocks and/or leg above the knee, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721, 721.3, 721.5 to 721.90, 722, 722.3, 722.32, 722.5, 722.51, 722.52, 722.6, 722.9, 722.90, 722.93, 724.2, 724.5, 724.6, 724.8, 724.9, 732.0, 737 to 737.9, 738.4, 738.5, 739.2 to 739.4, 756.1 to 756.19, 847.2 to 847.9, 922.3, 926.1, 926.11, and 926.12.
(2) Radicular pain, with or without regional low back pain, with static or no neurologic deficit. This includes the diagnoses of sciatica; lumbar or lumbosacral radiculopathy, radiculitis or neuritis; displacement or herniation of intervertebral disc with myelopathy, radiculopathy, radiculitis or neuritis; spinal stenosis with myelopathy, radiculopathy, radiculitis or neuritis; and any other diagnoses for pain in the leg below the knee believed to originate with irritation of a nerve root in the lumbar spine, including, but not limited to, the ICD-9-CM codes 721.4, 721.42, 721.91, 722.1, 722.10, 722.2,

722.7, 722.73, 724.0, 724.00, 724.02, 724.09, 724.3, 724.4, and 724.9. In these cases, neurologic findings on history and physical examination are either absent or do not show progressive deterioration.

(3) Radicular pain, with or without regional low back pain, with progressive neurologic deficit. This includes the same diagnoses as subitem (2), however, this category applies when there is a history of progressive deterioration in the neurologic symptoms and physical findings which include worsening sensory loss, increasing muscle weakness, or progressive reflex changes.

(4) Cauda equina syndrome, which is a syndrome characterized by anesthesia in the buttocks, genitalia, or thigh and accompanied by disturbed bowel and bladder function, ICD-9-CM codes 344.6, 344.60, and 344.61.

B. Laboratory tests are not indicated in the evaluation of a patient with regional low back pain, radicular pain, or cauda equina syndrome, except in any of the following circumstances:

(1) when a patient's history, age, or examination suggests infection, metabolic-endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders, such as rheumatoid arthritis or ankylosing spondylitis;

(2) to evaluate potential adverse side effects of medications; or

(3) as part of a preoperative evaluation. Laboratory tests may be ordered at any time the health care provider suspects any of these conditions, but the health care provider must justify the need for the tests ordered with clear documentation of the indications.

C. Medical imaging evaluation of the lumbosacral spine must be based on the findings of the history and physical examination and cannot be ordered before the health care provider's clinical evaluation of the patient. Medical imaging may not be performed as a routine procedure and must comply with all of the standards in part 5221.6100, subparts 1 and 2. The health care provider must document the appropriate indications for any medical imaging studies obtained.

D. EMG and nerve conduction studies are always inappropriate for regional low back pain as defined in item A, subitem (1). EMG and nerve conduction studies may be an appropriate diagnostic tool for radicular pain and cauda equina syndrome as defined in item A, subitems (2) to (4), after the first three weeks of radicular symptoms. Repeat EMG and nerve conduction studies for radicular pain and cauda equina syndrome are not indicated unless a new neurologic symptom or finding has developed which in itself would warrant electrodiagnostic testing. Failure to improve with treatment is not an indication for repeat testing.

E. The use of the following procedures or tests is not indicated for the diagnosis of any of the clinical categories in item A:

(1) surface electromyography or surface paraspinal electromyography;

(2) thermography;

(3) plethysmography;

(4) electronic X-ray analysis of plain radiographs;

(5) diagnostic ultrasound of the lumbar spine; or

(6) somatosensory evoked potentials (SSEP) and motor evoked potentials (MEP).

F. Computerized range of motion or strength measuring tests are not indicated during the period of initial nonsurgical management, but may be indicated during the period of chronic management when used in conjunction with a computerized exercise program, work hardening program, or work conditioning program. During the period of initial nonsurgical management, computerized range of motion or strength testing may be performed but must be done in conjunction with and shall not be reimbursed separately from an office visit with a physician, chiropractic evaluation or treatment, or physical or occupational therapy evaluation or treatment.

G. Personality or psychosocial evaluations may be indicated for evaluating patients who continue to have problems despite appropriate care. The treating health care provider may perform this evaluation or may refer the patient for consultation with another health care provider in order to obtain a psychological evaluation. These evaluations may be used to assess the patient for a number of psychological conditions which may interfere with recovery from the injury. Since more than one of these psychological conditions may be present in a given case, the health care provider performing the evaluation must

consider all of the following:

(1) Is symptom magnification occurring?

(2) Does the patient exhibit an emotional reaction to the injury, such as depression, fear, or anger, which is interfering with recovery?

(3) Are there other personality factors or disorders which are interfering with recovery?

(4) Is the patient chemically dependent?

(5) Are there any interpersonal conflicts interfering with recovery?

(6) Does the patient have a chronic pain syndrome or psychogenic pain?

(7) In cases in which surgery is a possible treatment, are psychological factors likely to interfere with the potential benefit of the surgery?

H. Diagnostic analgesic blocks or injection studies include facet joint injection, facet nerve injection, epidural differential spinal block, nerve block, and nerve root block.

(1) These procedures are used to localize the source of pain before surgery and to diagnose conditions which fail to respond to initial nonsurgical management.

(2) These injections are invasive and when done as diagnostic procedures only, are not indicated unless noninvasive procedures have failed to establish the diagnosis.

(3) Selection of patients, choice of procedure, and localization of the level of injection should be determined by documented clinical findings indicating possible pathologic conditions and the source of pain symptoms.

(4) These blocks and injections can also be used as therapeutic modalities and as such are subject to the parameters of subpart 5.

I. Functional capacity assessment or evaluation is a comprehensive and objective assessment of a patient's ability to perform work tasks. The components of a functional capacity assessment or evaluation include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.

(1) Functional capacity assessment or evaluation is not indicated during the period of initial nonsurgical management.

(2) After the period of initial nonsurgical management functional capacity assessment or evaluation is indicated in either of the following circumstances:

(a) activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to do a specific job.

(3) A functional capacity evaluation is not appropriate to establish baseline performance before treatment, or for subsequent assessments, to evaluate change during or after treatment.

(4) Only one completed functional capacity evaluation is indicated per injury.

J. Consultations with other health care providers can be initiated at any time by the treating health care provider consistent with accepted medical practice.

Subp. 2. **General treatment parameters for low back pain.**

A. All medical care for low back pain, appropriately assigned to a clinical category in subpart 1, item A, is determined by the clinical category to which the patient has been assigned. General parameters for treatment modalities are set forth in subparts 3 to 10. Specific treatment parameters for each clinical category are set forth in subparts 11 to 13, as follows:

(1) subpart 11 governs regional low back pain;

(2) subpart 12 governs radicular pain with no or static neurologic deficits; and

(3) subpart 13 governs cauda equina syndrome and radicular pain with progressive neurologic deficits.

The health care provider must, at each visit, reassess the appropriateness of the clinical category assigned and reassign the patient if warranted by new clinical information including symptoms, signs, results of diagnostic testing, and opinions and information obtained from consultations with other health care providers. When the clinical category is changed, the treatment plan must be appropriately modified to reflect the new clinical category. However, a change of

clinical category does not in itself allow the health care provider to continue a therapy or treatment modality past the maximum duration specified in subparts 3 to 10, or to repeat a therapy or treatment previously provided for the same injury.

B. In general, a course of treatment is divided into three phases.

(1) First, all patients with low back problems, except patients with progressive neurologic deficit or cauda equina syndrome under subpart 1, item A, subitems (3) and (4), must be given initial nonsurgical management which may include active treatment modalities, passive treatment modalities, injections, durable medical equipment, and medications. These modalities and parameters are described in subparts 3, 4, 5, 8, and 10. The period of initial nonsurgical treatment begins with the first active, passive, medication, durable medical equipment, or injection modality initiated. Initial nonsurgical treatment must result in progressive improvement as specified in subpart 9.

(2) Second, for patients with persistent symptoms, initial nonsurgical management is followed by a period of surgical evaluation. This evaluation should be completed in a timely manner. Surgery, if indicated, should be performed as expeditiously as possible consistent with sound medical practice and subparts 6 and 11 to 13, and part 5221.6500. The treating health care provider may do the evaluation, if it is within the provider's scope of practice, or may refer the employee to a consultant.

(a) Patients with radicular pain with progressive neurological deficit, or cauda equina syndrome may require immediate surgical therapy.

(b) Any patient who has had surgery may require postoperative therapy in a clinical setting with active and passive treatment modalities. This therapy may be in addition to any received during the period of initial nonsurgical care.

(c) Surgery must follow the parameters in subparts 6 and 11 to 13, and part 5221.6500.

(d) A decision against surgery at this time does not preclude a decision for surgery made at a later date.

(3) Third, for those patients who are not candidates for or refuse surgical therapy, or who do not have complete resolution of their symptoms with surgery, a period of chronic management may be indicated. Chronic management modalities are described in part 5221.6600, and may include durable medical equipment as described in subpart 8.

C. A treating health care provider may refer the employee for a consultation at any time during the course of treatment consistent with accepted medical practice.

Subp. 3. **Passive treatment modalities.**

A. Except as set forth in item B or part 5221.6050, subpart 8, the use of passive treatment modalities in a clinical setting as set forth in items C to I is not indicated beyond 12 calendar weeks after any of the passive modalities in item C to I are initiated. There are no limitations on the use of passive treatment modalities by the employee at home.

B. (1) An additional 12 visits for the use of passive treatment modalities over an additional 12 months may be provided if all of the following apply:

(a) the employee is released to work or is permanently totally disabled and the additional passive treatment must result in progressive improvement in, or maintenance of, functional status achieved during the initial 12 weeks of passive care;

(b) the treatment must not be given on a regularly scheduled basis;

(c) the health care provider must document in the medical record a plan to encourage the employee's independence and decreased reliance on health care providers;

(d) management of the employee's condition must include active treatment modalities during this period;

(e) the additional 12 visits for passive treatment must not delay the required surgical or chronic pain evaluation required by this chapter; and

(f) passive care is inappropriate while the employee has chronic pain syndrome.

(2) Except as otherwise provided in part 5221.6050, subpart 8, treatment may continue beyond the additional 12 visits only after prior approval by the insurer,

commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining employability; if the employee is permanently totally disabled, or if upon retirement the employee is eligible for ongoing medical benefits for the work injury, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining functional status.

C. Adjustment or manipulation of joints includes chiropractic and osteopathic adjustments or manipulations:
   (1) time for treatment response, three to five treatments;
   (2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

D. Thermal treatment includes all superficial and deep heating and cooling modalities. Superficial thermal modalities include hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, cold soaks, infrared, whirlpool, and fluidotherapy. Deep thermal modalities include diathermy, ultrasound, and microwave.
   (1) Treatment given in a clinical setting:
      (a) time for treatment response, two to four treatments;
      (b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and
      (c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.
   (2) Home use of thermal modalities may be prescribed at any time during the course of treatment. Home use may only involve hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, and cold soaks which can be applied by the patient without health care provider assistance. Home use of thermal modalities does not require any special training or monitoring, other than that usually provided by the health care provider during an office visit.

E. Electrical muscle stimulation includes galvanic stimulation, TENS, interferential, and microcurrent techniques.
   (1) Treatment given in a clinical setting:
      (a) time for treatment response, two to four treatments;
      (b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and
      (c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.
   (2) Home use of an electrical stimulation device may be prescribed at any time during a course of treatment. Initial use of an electrical stimulation device must be in a supervised setting in order to ensure proper electrode placement and patient education:
      (a) time for patient education and training, one to three sessions; and
      (b) patient may use the electrical stimulation device for one month, at which time effectiveness of the treatment must be reevaluated by the health care provider before continuing home use of the device.

F. Mechanical traction:
   (1) Treatment given in a clinical setting:
      (a) time for treatment response, three treatments;
      (b) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and
      (c) maximum treatment duration, 12 weeks in a clinical setting but only if used in conjunction with other therapies.
   (2) Home use of a mechanical traction device may be prescribed as follow-up to use of traction in a clinical setting if it has proven to be effective treatment and is expected to continue to be effective treatment. Initial use of a mechanical traction device must be in a supervised setting in order to ensure proper patient education:
      (a) time for patient education and training, one session; and
      (b) patient may use the mechanical traction device for one month, at which time effectiveness of the treatment must be reevaluated by

the health care provider before continuing home use of the device.

G. Acupuncture treatments. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure:
   (1) time for treatment response, three to five sessions;
   (2) maximum treatment frequency, up to three times per week for one to three weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

H. Manual therapy includes soft tissue and joint mobilization, therapeutic massage, and manual traction:
   (1) time for treatment response, three to five treatments;
   (2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

I. Phoresis includes iontophoresis and phonophoresis:
   (1) time for treatment response, three to five sessions;
   (2) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and
   (3) maximum treatment is nine sessions of either iontophoresis or phonophoresis, or combination, to any one site, with a maximum duration of 12 weeks for all treatment.

J. Bedrest. Prolonged restriction of activity and immobilization are detrimental to a patient's recovery. Bedrest should not be prescribed for more than seven days.

K. Spinal braces and other movement-restricting appliances. Bracing required for longer than two weeks must be accompanied by active muscle strengthening exercise to avoid deconditioning and prolonged disability:
   (1) time for treatment response, three days;
   (2) treatment frequency, limited to intermittent use during times of increased physical stress or prophylactic use at work; and
   (3) maximum continuous duration, three weeks unless patient is status postfusion.

Subp. 4. **Active treatment modalities.** Active treatment modalities must be used as set forth in items A to D. Use of active treatment modalities can extend past the 12-week limitation on passive treatment modalities so long as the maximum duration for the active modality is not exceeded.

A. Education must teach the patient about pertinent anatomy and physiology as it relates to spinal function for the purpose of injury prevention. Education includes training on posture, biomechanics, and relaxation. The maximum number of treatments is three visits, which includes an initial education and training session, and two follow-up visits.

B. Posture and work method training must instruct the patient in the proper performance of job activities. Topics include proper positioning of the trunk, neck, and arms, use of optimum biomechanics in performing job tasks, and appropriate pacing of activities. Methods include didactic sessions, demonstrations, exercises, and simulated work tasks. The maximum number of treatments is three visits.

C. Worksite analysis and modification must examine the patient's work station, tools, and job duties. Recommendations are made for the alteration of the work station, selection of alternate tools, modification of job duties, and provision of adaptive equipment. The maximum number of treatments is three visits.

D. Exercise, which is important to the success of an initial nonsurgical treatment program and a return to normal activity, must include active patient participation in activities designed to increase flexibility, strength, endurance, or muscle relaxation. Exercise must, at least in part, be specifically aimed at the musculature of the lumbosacral spine. While aerobic exercise and extremity strengthening may be performed as adjunctive treatment, this shall not be the primary focus of the exercise program.

Exercises must be evaluated to determine if the desired goals are being attained. Strength, flexibility, and endurance must be objectively measured. While the provider may objectively measure the treatment response as often as necessary for optimal care, after the initial evaluation the health care provider may not bill for the tests sooner than two weeks after the initial evaluation and monthly thereafter. Subitems (1) and (2) govern supervised and unsupervised exercise, except for computerized exercise

programs and health clubs, which are governed by part 5221.6600.

(1) Supervised exercise. One goal of an exercise program must be to teach the patient how to maintain and maximize any gains experienced from exercise. Self-management of the condition must be promoted:
   (a) maximum treatment frequency, three times per week for three weeks, and should decrease in frequency thereafter; and
   (b) maximum duration, 12 weeks.

(2) Unsupervised exercise must be provided in the least intensive setting appropriate to the goals of the exercise program, and may supplement or follow the period of supervised exercise:
   (a) maximum treatment frequency, up to three visits for instruction and monitoring; and
   (b) there is no limit on the duration or frequency of exercise at home.

Subp. 5. **Therapeutic injections.** Injection modalities are indicated as set forth in items A to C. Use of injections can extend past the 12-week limit on passive treatment modalities so long as the maximum treatment for injections is not exceeded.

A. Therapeutic injections, including injections of trigger points, facet joints, facet nerves, sacroiliac joints, sympathetic nerves, epidurals, nerve roots, and peripheral nerves. Therapeutic injections can only be given in conjunction with active treatment modalities directed to the same anatomical site.

(1) Trigger point injections:
   (a) time for treatment response, within 30 minutes;
   (b) maximum treatment frequency, once per week to any one site if a positive response to the first injection at that site. If subsequent injections at that site demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then trigger point injections should be redirected to other areas or discontinued. No more than three injections to different sites are reimbursable per patient visit; and
   (c) maximum treatment, four injections to any one site.

(2) Sacroiliac joint injections:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, can repeat injection two weeks after the previous injection if a positive response to the first injection. Only two injections are reimbursable per patient visit; and
   (c) maximum treatment, two injections to any one site.

(3) Facet joint or nerve injections:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, once every two weeks to any one site if a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections should be discontinued. No more than three injections to different sites are reimbursable per patient visit; and
   (c) maximum treatment, three injections to any one site.

(4) Nerve root blocks:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, can repeat injection two weeks after the previous injection if a positive response to the first injection. Only three injections to different sites are reimbursable per patient visit; and
   (c) maximum treatment, two injections to any one site.

(5) Epidural injections:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, once every two weeks if a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections should be discontinued. Only one injection is reimbursable per patient visit; and
   (c) maximum treatment, three injections.

B. Permanent lytic or sclerosing injections, including radio frequency denervation of the facet joints. These injections can only be given in conjunction with active treatment modalities directed to the same anatomical site:

(1) time for treatment response, within one week;

(2) maximum treatment frequency, may

repeat once for any site; and

(3) maximum duration, two injections to any one site.

C. Prolotherapy and botulinum toxin injections are not indicated in the treatment of low back problems and are not reimbursable.

Subp. 6. **Surgery, including decompression procedures and arthrodesis.** Surgery may only be performed if it also meets the specific parameters specified in subparts 11 to 13 and part 5221.6500. The health care provider must provide prior notification of nonemergency inpatient surgery according to part 5221.6050, subpart 9.

A. In order to optimize the beneficial effect of surgery, postoperative therapy with active and passive treatment modalities may be provided, even if these modalities had been used in the preoperative treatment of the condition. In the postoperative period the maximum treatment duration with passive treatment modalities in a clinical setting from the initiation of the first passive modality used, except bedrest or bracing, is as follows:

(1) eight weeks following lumbar decompression or implantation of a dorsal column stimulator or morphine pump; or

(2) 12 weeks following arthrodesis.

B. Repeat surgery must also meet the parameters of subparts 11 to 13 and part 5221.6500, and is not indicated unless the need for the repeat surgery is confirmed by a second opinion obtained before surgery, if a second opinion is requested by the insurer.

C. The following surgical therapies have very limited application and require a second opinion that confirms that the treatment is indicated and within the parameters listed, and a personality or psychosocial evaluation that indicates that the patient is likely to benefit from the treatment.

(1) Dorsal column stimulator is indicated for a patient who has neuropathic pain, and is not a candidate for any other surgical therapy, and has had a favorable response to a trial screening period.

(2) Morphine pump is indicated for a patient who has somatic pain, and is not a candidate for any other surgical therapy, and has had a favorable response to a trial screening period.

Subp. 7. **Chronic management.** Chronic management of low back pain must be provided according to the parameters of part 5221.6600.

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in the situations specified in items A to D. The health care provider must provide prior notification as required in items B and C according to part 5221.6050, subpart 9.

A. Lumbar braces, corsets, or supports are indicated as specified in subpart 3, item K.

B. For patients using electrical stimulation or mechanical traction devices at home, the device and any required supplies are indicated within the parameters of subpart 3, items E and F. Prior notification must be provided to the insurer for purchase of the device or for use longer than one month. The insurer may provide equipment if it is comparable to that prescribed by the health care provider.

C. Exercise equipment for home use, including bicycles, treadmills, and stairclimbers, are indicated only within the context of a program or plan of an approved chronic management program. This equipment is not indicated during initial nonsurgical care or during reevaluation and surgical therapy. Prior notification must be provided to the insurer for the purchase of home exercise equipment. The insurer may decide which brand of a prescribed type of exercise equipment is provided to the patient. If the employer has an appropriate exercise facility on its premises with the prescribed equipment, the insurer may mandate use of that facility instead of authorizing purchase of the equipment for home use.

(1) Indications: the patient is deconditioned and requires reconditioning which can be accomplished only with the use of the prescribed exercise equipment. The health care provider must document specific reasons why the exercise equipment is necessary and cannot be replaced with other activities.

(2) Requirements: the use of the equipment must have specific goals and there must be a specific set of prescribed activities.

D. The following durable medical equipment is not indicated for home use for low back conditions:

(1) whirlpools, Jacuzzi, hot tubs, and special bath or shower attachments; or

(2) beds, waterbeds, mattresses, chairs, recliners, and loungers.

Subp. 9. **Evaluation of treatment by health care provider.** The health care provider must evaluate at each visit whether the treatment is

medically necessary, and must evaluate whether initial nonsurgical treatment is effective according to items A to C. No later than the time for treatment response established for the specific modality as specified in subparts 3, 4, and 5, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality is resulting in progressive improvement as specified in items A to C:

A. the employee's subjective complaints of pain or disability are progressively improving, as evidenced by documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

B. the objective clinical findings are progressively improving, as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of the injury; and

C. the employee's functional status, especially vocational activity, is progressively improving, as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive imitations on activity.

If there is not progressive improvement in at least two items of items A to C, the modality must be discontinued or significantly modified, or the provider must reconsider the diagnosis. The evaluation of the effectiveness of the treatment modality can be delegated to an allied health professional directly providing the treatment, but remains the ultimate responsibility of the treating health care provider.

Subp. 10. **Scheduled and nonscheduled medication.** Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including without limitation, narcotics, is indicated only for the treatment of severe acute pain. These medications are not indicated in the treatment of patients with regional low back pain after the first two weeks.

Patients with radicular pain may require longer periods of treatment.

The health care provider must document the rationale for the use of any scheduled medication. Treatment with nonscheduled medication may be appropriate during any phase of treatment and intermittently after all other treatment has been discontinued. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and that the most cost-effective regimen is used.

Subp. 11. **Specific treatment parameters for regional low back pain.**

A. Initial nonsurgical treatment must be the first phase of treatment for all patients with regional low back pain under subpart 1, item A, subitem (1).

(1) The passive, active, injection, durable medical equipment, and medication treatment modalities and procedures in subparts 3, 4, 5, 8, and 10, may be used in sequence or simultaneously during the period of initial nonsurgical management, depending on the severity of the condition.

(2) The only therapeutic injections indicated for patients with regional back pain are trigger point injections, facet joint injections, facet nerve injections, sacroiliac joint injections, and epidural blocks, and their use must meet the parameters of subpart 5.

(3) After the first week of treatment, initial nonsurgical treatment must at all times contain active treatment modalities according to the parameters of subpart 4.

(4) Initial nonsurgical treatment must be provided in the least intensive setting consistent with quality health care practices.

(5) Except as otherwise specified in subpart 3, passive treatment modalities in a clinic setting or requiring attendance by a health care provider are not indicated beyond 12 weeks after any passive modality other than bedrest or bracing is first initiated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and physical findings after the course of initial nonsurgical care, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. The purpose of surgical evaluation is to determine whether surgery is indicated in the treatment of a patient who has failed to recover with initial nonsurgical care. If the patient is not a surgical candidate, then chronic management is indicated.

(1) Surgical evaluation, if indicated, may begin as soon as eight weeks after, but must begin no later than 12 weeks after, beginning initial nonsurgical management. An initial recommendation or decision against surgery does not preclude surgery at a later date.

(2) Surgical evaluation may include the

use of appropriate medical imaging techniques. The imaging technique must be chosen on the basis of the suspected etiology of the patient's condition but the health care provider must follow the parameters of part 5221.6100. Medical imaging studies which do not meet these parameters are not indicated.

(3) Surgical evaluation may also include diagnostic blocks and injections. These blocks and injections are only indicated if their use is consistent with the parameters of subpart 1, item H.

(4) Surgical evaluation may also include personality or psychosocial evaluation, consistent with the parameters of subpart 1, item G.

(5) Consultation with other health care providers may be appropriate as part of the surgical evaluation. The need for consultation and the choice of consultant will be determined by the findings on medical imaging, diagnostic analgesic blocks and injections, if performed, and the patient's ongoing subjective complaints and physical findings.

(6) The only surgical procedures indicated for patients with regional low back pain only are decompression of a lumbar nerve root or lumbar arthrodesis, with or without instrumentation, which must meet the parameters of subpart 6 and part 5221.6500, subpart 2, items A and C. For patients with failed back surgery, dorsal column stimulators or morphine pumps may be indicated; their use must meet the parameters of subpart 6, item C.

(a) If surgery is indicated, it should be offered to the patient as soon as possible. If the patient agrees to the proposed surgery, it should be performed as expeditiously as possible consistent with sound medical practice, and consistent with any requirements of part 5221.6050, subpart 9, for prior notification of the insurer or second opinions.

(b) If surgery is not indicated, or if the patient does not wish to proceed with surgery, then the patient is a candidate for chronic management according to the parameters of part 5221.6600.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refuses surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management which must be provided according to the parameters of part 5221.6600.

Subp. 12. **Specific treatment parameters for radicular pain, with or without regional low back pain, with no or static neurologic deficits.**

A. Initial nonsurgical treatment is appropriate for all patients with radicular pain, with or without regional low back pain, with no or static neurologic deficits under subpart 1, item A, subitem (2), and must be the first phase of treatment. It must be provided within the parameters of subpart 11, item A, with the following modifications: epidural blocks, and nerve root and peripheral nerve blocks are the only therapeutic injections indicated for patients with radicular pain only. If there is a component of regional low back pain, therapeutic facet joint injections, facet nerve injections, trigger point injections, and sacroiliac injections may also be indicated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and physical findings after the course of initial nonsurgical care, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. It must be provided within the parameters of subpart 11, item B.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered, the patient refused surgical therapy, or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with radicular pain, with or without regional back pain, with static neurologic deficits must meet all of the parameters of part 5221.6600.

Subp. 13. **Specific treatment parameters for cauda equina syndrome and for radicular pain, with or without regional low back pain,**

with progressive neurologic deficits.

A. Patients with cauda equina syndrome or with radicular pain, with or without regional low back pain, with progressive neurologic deficits may require immediate or emergency surgical evaluation at any time during the course of the overall treatment. The decision to proceed with surgical evaluation is made by the health care provider based on the type of neurologic changes observed, the severity of the changes, the rate of progression of the changes, and the response to any initial nonsurgical treatments. Surgery, if indicated, may be performed at any time during the course of treatment. Surgical evaluation and surgery shall be provided within the parameters of subpart 11, item B, except that surgical evaluation and surgical therapy may begin at any time.

B. If the health care provider decides to proceed with a course of initial nonsurgical care for a patient with radicular pain with progressive neurologic changes, it must follow the parameters of subpart 12, item A.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refuses surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with radicular pain, with or without regional back pain, with foot drop or progressive neurologic changes at first presentation must meet the parameters of part 5221.6600.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6205 NECK PAIN.

Subpart 1. **Diagnostic procedures for treatment of neck injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating distal to the shoulder. This part does not apply to fractures of the cervical spine or cervical pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.

(1) Regional neck pain includes referred pain to the shoulder and upper back. Regional neck pain includes the diagnoses of cervical strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, and other diagnoses for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the cervical spine and which affects the cervical region, with or without referral to the upper back or shoulder, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721 to 721.0, 721.5 to 721.90, 722.3 to 722.30, 722.4, 722.6, 722.9 to 722.91, 723 to 723.3, 723.5 to 723.9, 724.5, 724.8, 724.9, 732.0, 737 to 737.9, 738.4, 738.5, 739.1, 756.1 to 756.19, 847 to 847.0, 920, 922.3, 925, and 926.1 to 926.12.

(2) Radicular pain, with or without regional neck pain, with no or static neurologic deficit. This includes the diagnoses of brachialgia; cervical radiculopathy, radiculitis, or neuritis; displacement or herniation of intervertebral disc with radiculopathy, radiculitis, or neuritis; spinal stenosis with radiculopathy, radiculitis, or neuritis; and other diagnoses for pain in the arm distal to the shoulder believed to originate with irritation of a nerve root in the cervical spine, including, but not limited to, the ICD-9-CM codes 721.1, 721.91, 722 to 722.0, 722.2, 722.7 to 722.71, 723.4, and 724 to 724.00. In these cases neurologic findings on history and examination are either absent or do not show progressive deterioration.

(3) Radicular pain, with or without regional neck pain, with progressive neurologic deficit, which includes the same diagnoses as subitem (2); however, in these cases there is a history of progressive deterioration in the neurologic symptoms and physical findings, including worsening sensory loss, increasing muscle weakness, and progressive reflex changes.

(4) Cervical compressive myelopathy, with or without radicular pain, is a condition characterized by weakness and spasticity in one or both legs and associated with any of the following: exaggerated reflexes, an extensor plantar response, bowel or bladder dysfunction, sensory ataxia, or bilateral sensory changes.

B. Laboratory tests are not indicated in the evaluation of a patient with regional neck pain, or radicular pain, except:
(1) when a patient's history, age, or examination suggests infection, metabolic-endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders, such as rheumatoid arthritis or ankylosing spondylitis;
(2) to evaluate potential adverse side effects of medications; or
(3) as part of a preoperative evaluation. Laboratory tests may be ordered at any time the health care provider suspects any of these conditions, but the health care provider must justify the need for the tests ordered with clear documentation of the indications.

C. Medical imaging evaluation of the cervical spine must be based on the findings of the history and physical examination and cannot be ordered prior to the health care provider's clinical evaluation of the patient. Medical imaging may not be performed as a routine procedure and must comply with the standards in part 5221.6100, subpart 1. The health care provider must document the appropriate indications for any medical imaging studies obtained.

D. EMG and nerve conduction studies are always inappropriate for the regional neck pain diagnoses in item A, subitem (1). EMG and nerve conduction studies may be an appropriate diagnostic tool for radicular pain and myelopathy diagnoses in item A, subitems (2) to (4), after the first three weeks of radicular or myelopathy symptoms. Repeat EMG and nerve conduction studies for radicular pain and myelopathy are not indicated unless a new neurologic symptom or finding has developed which in itself would warrant electrodiagnostic testing. Failure to improve with treatment is not an indication for repeat testing.

E. The use of the following procedures or tests is not indicated for the diagnosis of any of the clinical categories in item A:
(1) surface electromyography or surface paraspinal electromyography;
(2) thermography;
(3) plethysmography;
(4) electronic X-ray analysis of plain radiographs;
(5) diagnostic ultrasound of the spine; or
(6) somatosensory evoked potentials (SSEP) and motor evoked potentials (MEP).

F. Computerized range of motion or strength measuring tests are not indicated during the period of initial nonsurgical management, but may be indicated during the period of chronic management when used in conjunction with a computerized exercise program, work hardening program, or work conditioning program. During the period of initial nonsurgical management, computerized range of motion or strength testing can be performed but must be done in conjunction with and shall not be reimbursed separately from an office visit, chiropractic evaluation or treatment, or physical or occupational therapy evaluation or treatment.

G. Personality or psychological evaluations may be a useful tool for evaluating patients who continue to have problems despite appropriate care. The treating health care provider may perform this evaluation or may refer the patient for consultation with another health care provider in order to obtain a psychological evaluation. These evaluations may be used to assess the patient for a number of psychological conditions which may interfere with recovery from the injury. Since more than one of these psychological conditions may be present in a given case, the health care provider performing the evaluation must consider all of the following:
(1) Is symptom magnification occurring?
(2) Does the patient exhibit an emotional reaction to the injury, such as depression, fear, or anger, which is interfering with recovery?
(3) Are there other personality factors or disorders which are interfering with recovery?
(4) Is the patient chemically dependent?
(5) Are there any interpersonal conflicts interfering with recovery?
(6) Does the patient have a chronic pain syndrome or psychogenic pain?
(7) In cases in which surgery is a possible treatment, are psychological factors, such as those in subitems (1) to (6), likely to interfere with the potential benefit of the surgery?

H. Diagnostic analgesic blocks or injection studies include facet joint injection, facet nerve block, epidural differential spinal block, nerve block, and nerve root block.
   (1) These procedures are used to localize the source of pain prior to surgery and to diagnose conditions which fail to respond to initial nonsurgical management.
   (2) These blocks and injections are invasive and when done as diagnostic procedures only, are not indicated unless noninvasive procedures have failed to establish the diagnosis.
   (3) Selection of patients, choice of procedure, and localization of the level of injection should be determined by documented clinical findings indicating possible pathologic conditions and the source of pain symptoms.
   (4) These blocks and injections can also be used as therapeutic modalities and as such are subject to the parameters of subpart 5.

I. Functional capacity assessment or evaluation is a comprehensive and objective assessment of a patient's ability to perform work tasks. The components of a functional capacity assessment or evaluation include, but are not necessarily limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine a patient's physical capacities in general or to determine and report work tolerance for a specific job, task, or work activity.
   (1) Functional capacity assessment or evaluation is not reimbursable during the period of initial nonoperative care.
   (2) Functional capacity assessment or evaluation is reimbursable in either of the following circumstances:
      (a) permanent activity restrictions and capabilities must be identified; or
      (b) there is a question about the patient's ability to do a specific job.

J. Consultations with other health care providers may be initiated at any time by the treating health care provider, consistent with accepted medical practice.

Subp. 2. **General treatment parameters for neck pain.**

A. All medical care for neck pain appropriately assigned to a clinical category in subpart 1, item A, is determined by the diagnosis and clinical category in subpart 1, item A, to which the patient has been assigned. General parameters for treatment modalities are set forth in subparts 3 to 10. Specific treatment parameters for each clinical category are set forth in subparts 11 to 14, as follows:
   (1) subpart 11 governs regional neck pain;
   (2) subpart 12 governs radicular pain with static neurologic deficits;
   (3) subpart 13 governs radicular pain with progressive neurologic deficits; and
   (4) subpart 14 governs myelopathy.

   The health care provider must, at each visit, reassess the appropriateness of the clinical category assigned and reassign the patient if warranted by new clinical information including symptoms, signs, results of diagnostic testing, and opinions and information obtained from consultations with other health care providers. When the clinical category is changed the treatment plan must be appropriately modified to reflect the new clinical category. However, a change of clinical category does not in itself allow the health care provider to continue a therapy or treatment modality past the maximum duration specified in subparts 3 to 10, or to repeat a therapy or treatment previously provided for the same injury.

B. In general, a course of treatment is divided into three phases.
   (1) First, all patients with neck problems, except patients with radicular pain with progressive neurological deficit, or myelopathy under subpart 1, item A, subitems (3) and (4), must be given initial nonsurgical care which may include both active and passive treatment modalities, injections, durable medical equipment, and medications. These modalities and parameters are described in subparts 3, 4, 5, 8, and 10. The period of initial nonsurgical management begins with the first passive, active, injection, durable medical equipment, or medication modality initiated. Initial nonsurgical treatment must result in progressive improvement as specified in subpart 9.
   (2) Second, for patients with persistent

symptoms, initial nonoperative care is followed by a period of surgical evaluation. This evaluation should be completed in a timely manner. Surgery, if indicated, should be performed as expeditiously as possible consistent with sound medical practice, and subparts 6 and 11 to 14, and part 5221.6500. The treating health care provider may do the evaluation, if it is within the provider's scope of practice, or may refer the employee to a consultant.

(a) Patients with radicular pain with progressive neurological deficit, or myelopathy may require immediate surgical therapy.

(b) Any patient who has had surgery may require postoperative therapy with active and passive treatment modalities. This therapy may be in addition to any received during the period of initial nonsurgical management.

(c) Surgery must follow the parameters in subparts 6 and 11 to 14, and part 5221.6500.

(d) A decision against surgery at this time does not preclude a decision for surgery made at a later date.

(3) Third, for those patients who are not candidates for or refuse surgical therapy, or who do not have complete resolution of their symptoms with surgery, a period of chronic management may be indicated. Chronic management modalities are described in part 5221.6600, and may include durable medical equipment as described in subpart 8.

C. A treating health care provider may refer the employee for a consultation at any time during the course of treatment consistent with accepted medical practice.

Subp. 3. **Passive treatment modalities.**

A. Except as set forth in item B or part 5221.6050, subpart 8, the use of passive treatment modalities in a clinical setting as set forth in items C to I is not indicated beyond 12 calendar weeks after any of the passive modalities in item C to I are initiated. There are no limitations on the use of passive treatment modalities by the employee at home.

B. (1) An additional 12 visits for the use of passive treatment modalities over an additional 12 months may be provided if all of the following apply:

(a) the employee is released to work or is permanently totally disabled and the additional passive treatment must result in progressive improvement in, or maintenance of, functional status achieved during the initial 12 weeks of passive care;

(b) the treatment must not be given on a regularly scheduled basis;

(c) the health care provider must document in the medical record a plan to encourage the employee's independence and decreased reliance on health care providers;

(d) management of the employee's condition must include active treatment modalities during this period;

(e) the additional 12 visits for passive treatment must not delay the required surgical or chronic pain evaluation required by this chapter; and

(f) passive care is inappropriate while the employee has chronic pain syndrome.

(2) Except as otherwise provided in part 5221.6050, subpart 8, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining employability; if the employee is permanently totally disabled, or if upon retirement the employee is eligible for ongoing medical benefits for the work injury, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining functional status.

C. Adjustment or manipulation of joints includes chiropractic and osteopathic adjustments or manipulations:

(1) time for treatment response, three to five treatments;

(2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and

(3) maximum treatment duration, 12 weeks.

D. Thermal treatment includes all superficial

and deep heating modalities and cooling modalities. Superficial thermal modalities include hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, cold soaks, infrared, whirlpool, and fluidotherapy. Deep thermal modalities include diathermy, ultrasound, and microwave.

(1) Treatment given in a clinical setting:
   (a) time for treatment response, two to four treatments;
   (b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and
   (c) maximum treatment duration, 12 weeks of treatment in a clinical setting, but only if given in conjunction with other therapies.

(2) Home use of thermal modalities may be prescribed at any time during the course of treatment. Home use may only involve hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, and cold soaks which can be applied by the patient without health care provider assistance. Home use of thermal modalities does not require any special training or monitoring, other than that usually provided by the health care provider during an office visit.

E. Electrical muscle stimulation includes galvanic stimulation, TENS, interferential, and microcurrent techniques.

(1) Treatment given in a clinical setting:
   (a) time for treatment response, two to four treatments;
   (b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and
   (c) maximum treatment duration, 12 weeks of treatment in a clinical setting, but only if given in conjunction with other therapies.

(2) Home use of an electrical stimulation device may be prescribed at any time during a course of treatment. Initial use of an electrical stimulation device must be in a supervised setting in order to ensure proper electrode placement and patient education:
   (a) time for patient education and training, one to three sessions; and
   (b) patient may use the electrical stimulation device for one month, at which time effectiveness of the treatment must be reevaluated by the health care provider before continuing home use of the device.

F. Mechanical traction:

(1) Treatment given in a clinical setting:
   (a) time for treatment response, three treatments;
   (b) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and
   (c) maximum treatment duration, 12 weeks in a clinical setting, but only if used in conjunction with other therapies.

(2) Home use of a mechanical traction device may be prescribed as follow-up to use of traction in a clinical setting if it has proven to be effective treatment and is expected to continue to be effective treatment. Initial use of a mechanical traction device must be in a supervised setting in order to ensure proper patient education:
   (a) time for patient education and training, one session; and
   (b) a patient may use the mechanical traction device for one month, at which time effectiveness of the treatment must be reevaluated by the health care provider before continuing home use of the device.

G. Acupuncture treatments. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure:
   (1) time for treatment response, three to five sessions;
   (2) maximum treatment frequency, up to three times per week for one to three weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

H. Manual therapy includes soft tissue and joint mobilization, therapeutic massage, and manual traction:
   (1) time for treatment response, three to five treatments;
   (2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

I. Phoresis includes iontophoresis and phonophoresis:
   (1) time for treatment response, three to five sessions;

(2) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and

(3) maximum treatment duration, 12 weeks.

J. Bedrest. Prolonged restriction of activity and immobilization are detrimental to a patient's recovery. Bedrest should not be prescribed for more than seven days.

K. Cervical collars, spinal braces, and other movement-restricting appliances. Bracing required for longer than two weeks must be accompanied by active muscle strengthening exercise to avoid deconditioning and prolonged disability:

(1) time for treatment response, three days;

(2) treatment frequency, limited to intermittent use during times of increased physical stress or prophylactic use at work; and

(3) maximum continuous duration, up to three weeks unless patient is status postfusion.

Subp. 4. **Active treatment modalities.** Active treatment modalities must be used as set forth in items A to D. Use of active treatment modalities may extend past the 12-week limitation on passive treatment modalities, so long as the maximum duration for the active modality is not exceeded.

A. Education must teach the patient about pertinent anatomy and physiology as it relates to spinal function for the purpose of injury prevention. Education includes training on posture, biomechanics, and relaxation. The maximum number of treatments is three visits, which includes an initial education and training session, and two follow-up visits.

B. Posture and work method training must instruct the patient in the proper performance of job activities. Topics include proper positioning of the trunk, neck, and arms, use of optimum biomechanics in performing job tasks, and appropriate pacing of activities. Methods include didactic sessions, demonstrations, exercises, and simulated work tasks. The maximum number of treatments is three visits.

C. Worksite analysis and modification must examine the patient's work station, tools, and job duties. Recommendations are made for the alteration of the work station, selection of alternate tools, modification of job duties, and provision of adaptive equipment. The maximum number of treatments is three visits.

D. Exercise, which is important to the success of an initial nonsurgical treatment program and a return to normal activity, must include active patient participation in activities designed to increase flexibility, strength, endurance, or muscle relaxation. Exercise must, at least in part, be specifically aimed at the musculature of the cervical spine. While aerobic exercise and extremity strengthening may be performed as adjunctive treatment, it must not be the primary focus of the exercise program.

Exercises must be evaluated to determine if the desired goals are being attained. Strength, flexibility, and endurance must be objectively measured. While the provider may objectively measure the treatment response as often as necessary for optimal care, after the initial evaluation the health care provider may not bill for the tests sooner than two weeks after the initial evaluation and monthly thereafter. Subitems (1) and (2) govern supervised and unsupervised exercise, except for computerized exercise programs and health clubs, which are governed by part 5221.6600.

(1) Supervised exercise. One goal of an exercise program must be to teach the patient how to maintain and maximize any gains experienced from exercise. Self-management of the condition must be promoted:

(a) maximum treatment frequency, three times per week for three weeks, decreasing in frequency thereafter; and

(b) maximum duration, 12 weeks.

(2) Unsupervised exercise must be provided in the least intensive setting appropriate to the goals of the exercise program, and may supplement or follow the period of supervised exercise:

(a) maximum treatment frequency, up to three visits for instruction and monitoring; and

(b) there is no limit on the duration or frequency of exercise at home.

Subp. 5. **Therapeutic injections.** Injection modalities are indicated as set forth in items A to C. Use of injections may extend past the 12-week limit on passive treatment modalities, so long as the maximum treatment for injections is not exceeded.

A. Therapeutic injections include trigger points injections, facet joint injections, facet nerve blocks, sympathetic nerve blocks,

epidurals, nerve root blocks, and peripheral nerve blocks. Therapeutic injections can only be given in conjunction with active treatment modalities directed to the same anatomical site.

(1) Trigger point injections:
   (a) time for treatment response, within 30 minutes;
   (b) maximum treatment frequency, once per week if a positive response to the first injection at that site. If subsequent injections at that site demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then trigger point injections should be redirected to other areas or discontinued. Only three injections are reimbursable per patient visit; and
   (c) maximum treatment, four injections to any one site.

(2) Facet joint injections or facet nerve blocks:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, once every two weeks if a positive response to the first injection or block. If subsequent injections or blocks demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections or blocks should be discontinued. Only three injections or blocks are reimbursable per patient visit; and
   (c) maximum treatment, three injections or blocks to any one site.

(3) Nerve root blocks:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, can repeat injection no sooner than two weeks after the previous injection if a positive response to the first injection. No more than three blocks are reimbursable per patient visit; and
   (c) maximum treatment, two blocks to any one site.

(4) Epidural injections:
   (a) time for treatment response, within one week;
   (b) maximum treatment frequency, once every two weeks if a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections should be discontinued. Only one injection is reimbursable per patient visit; and
   (c) maximum treatment, three injections.

B. Permanent lytic or sclerosing injections, including radio frequency denervation of the facet joints. These injections can only be given in conjunction with active treatment modalities directed to the same anatomical site:
   (1) time for treatment response, within one week;
   (2) maximum treatment frequency, may repeat once for any site; and
   (3) maximum duration, two injections to any one site.

C. Prolotherapy and botulinum toxin injections are not indicated in the treatment of neck problems and are not reimbursable.

Subp. 6. **Surgery, including decompression procedures and arthrodesis.** Surgery may only be performed if it meets the specific parameters of subparts 11 to 14 and part 5221.6500. The health care provider must provide prior notification for nonemergency inpatient surgery according to part 5221.6050, subpart 9.

A. In order to optimize the beneficial effect of surgery, postoperative therapy with active and passive treatment modalities may be provided, even if these modalities had been used in the preoperative treatment of the condition. In the postoperative period the maximum treatment duration with passive treatment modalities in a clinical setting from the initiation of the first passive modality used, except bedrest or bracing, is as follows:
   (1) eight weeks following decompression or implantation of a dorsal column stimulator or morphine pump; or
   (2) 12 weeks following arthrodesis.

B. Repeat surgery must also meet the parameters of subparts 11 to 14 and part 5221.6500 and is not indicated unless the need for the repeat surgery is confirmed by a second opinion obtained before surgery, if requested by the insurer.

C. The following surgical therapies have very limited application and require a second opinion which confirms that the treatment is indicated and within the parameters listed, and a personality or psychosocial evaluation indicates that the patient is likely to benefit from the treatment.
   (1) Dorsal column stimulator is indicated for a patient who has neuropathic pain,

is not a candidate for any other invasive therapy, and has had a favorable response to a trial screening period.

(2) Morphine pump is indicated for a patient who has somatic pain, is not a candidate for any other invasive therapy, and has had a favorable response to a trial screening period.

Subp. 7. **Chronic management.** Chronic management of neck disorders must be provided according to the parameters of part 5221.6600.

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only as specified in items A to D. The health care provider must provide prior notification as required in items B and C according to part 5221.6050, subpart 9.

A. Cervical collars, braces, or supports and home cervical traction devices may be indicated within the parameters of subpart 3, items F and K.

B. For patients using electrical stimulation at home, the device and any required supplies are indicated within the parameters of subpart 3, item E. Prior notification must be given for purchase of the device or for use longer than one month. The insurer may provide equipment if it is comparable to that prescribed by the health care provider.

C. Exercise equipment for home use, including bicycles, treadmills, and stairclimbers, are indicated only within the context of a program or plan of an approved chronic management program. This equipment is not indicated during initial nonoperative care or during reevaluation and surgical therapy. Prior notification must be given to the insurer before purchase of the home exercise equipment. The insurer may decide which brand of a prescribed type of exercise equipment is provided to the patient. If the employer has an appropriate exercise facility on its premises with the prescribed equipment, the insurer may mandate the use of that facility instead of authorizing purchase of equipment for home use.

(1) Indications: the patient is deconditioned and requires reconditioning which can be accomplished only with the use of the prescribed exercise equipment. The health care provider must document specific reasons why the exercise equipment is necessary and cannot be replaced with other activities.

(2) Requirements: the use of the equipment must have specific goals and there must be a specific set of prescribed activities.

D. The following durable medical equipment is not indicated for home use for neck pain conditions:

(1) whirlpools, Jacuzzis, hot tubs, and special bath or shower attachments; or

(2) beds, waterbeds, mattresses, chairs, recliners, and loungers.

Subp. 9. **Evaluation of treatment by health care provider.** The health care provider must evaluate at each visit whether the treatment is medically necessary, and shall evaluate whether initial nonsurgical management is effective according to items A to C.

No later than the time for treatment response established for the specific modality as specified in subparts 3, 4, and 5, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality has resulted in progressive improvement as specified in items A to C:

A. the employee's subjective complaints of pain or disability are progressively improving, as evidenced by documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

B. the objective clinical findings are progressively improving, as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of injury; and

C. the employee's functional status, especially vocational activity, is progressively improving, as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive limitations on activity.

If there is not progressive improvement in at least two items of items A to C, the modality must be discontinued or significantly modified or the provider must reconsider the diagnosis. The evaluation of the effectiveness of the treatment modality can be delegated to an allied health professional working under the direction of the treating health care provider but remains the ultimate responsibility of the treating health care provider.

Subp. 10. **Scheduled and nonscheduled medication.** Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including, without limitation, narcotics, is indicated only for the treatment of

severe acute pain. These medications are not indicated in the treatment of patients with regional neck pain after the first two weeks.

Patients with radicular pain may require longer periods of treatment.

The health care provider must document the rationale for the use of any scheduled medication. Treatment with nonnarcotic medication may be appropriate during any phase of treatment and intermittently after all other treatment has been discontinued. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

Subp. 11. **Specific treatment parameters for regional neck pain.**

A. Initial nonsurgical treatment must be the first phase of treatment for all patients with regional neck pain under subpart 1, item A, subitem (1).

(1) The active, passive, injection, durable medical equipment, and medication treatment modalities and procedures in subparts 3, 4, 5, 8, and 10, may be used in sequence or simultaneously during the period of initial nonsurgical management depending on the severity of the condition.

(2) The only therapeutic injections indicated for patients with regional neck pain are trigger point injections, facet joint injections, facet nerve blocks, and epidural blocks, and their use must meet the parameters of subpart 5.

(3) After the first week of treatment, initial nonsurgical treatment must at all times contain active treatment modalities according to the parameters of subpart 4.

(4) Initial nonsurgical treatment must be provided in the least intensive setting consistent with quality health care practices.

(5) Except as otherwise provided in subpart 3, passive treatment modalities in a clinic setting or requiring attendance by a health care provider are not indicated beyond 12 weeks after any passive modality other than bedrest or bracing is first initiated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and physical findings after the course of initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. The purpose of surgical evaluation is to determine whether surgery is indicated in the treatment of a patient who has failed to recover with initial nonsurgical care. If the patient is not a surgical candidate, then chronic management is indicated.

(1) Surgical evaluation if indicated may begin as soon as eight weeks after, but must begin no later than 12 weeks after, beginning initial nonsurgical management. An initial recommendation or decision against surgery does not preclude surgery at a later date.

(2) Surgical evaluation may include the use of appropriate medical imaging techniques. The imaging technique must be chosen on the basis of the suspected etiology of the patient's condition but the health care provider must follow the parameters of part 5221.6100, subpart 1.

(3) Surgical evaluation may also include diagnostic blocks and injections. These blocks and injections are only indicated if their use is consistent with the parameters of subpart 1, item H.

(4) Surgical evaluation may also include personality or psychosocial evaluation, consistent with the parameters of subpart 1, item G.

(5) Consultation with other health care providers may be appropriate as part of the surgical evaluation. The need for consultation and the choice of consultant will be determined by the findings on medical imaging, diagnostic analgesic blocks and injections, if performed, and the patient's ongoing subjective complaints and physical findings.

(6) The only surgical procedure indicated for patients with regional neck pain only is cervical arthrodesis, with or without instrumentation, which must meet the parameters of subpart 6. For patients with failed surgery, dorsal column stimulators or morphine pumps may be indicated consistent with the parameters of subpart 6, item C.

(a) If surgery is indicated, it should be offered to the patient as soon as possible. If the patient agrees to the proposed surgery, it should be performed as expeditiously as possible consistent with sound medical practice, and consistent with any requirements of part 5221.6050, subpart 9, for prior

notification of the insurer or second opinions.

(b) If surgery is not indicated or if the patient does not wish to proceed with surgical therapy, then the patient is a candidate for chronic management.

C. If the patient continues with symptoms and objective physical findings after surgery has been rendered or the patient refuses surgery or the patient was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management according to part 5221.6600.

Subp. 12. **Specific treatment parameters for radicular pain, with or without regional neck pain, with no or static neurologic deficits.**

A. Initial nonsurgical treatment is appropriate for all patients with radicular pain, with or without regional neck pain, with no or static neurologic deficits under subpart 1, item A, subitem (2), and must be the first phase of treatment. It must be provided within the parameters of subpart 11, item A, with the following modifications: epidural blocks and nerve root and peripheral nerve blocks are the only therapeutic injections indicated for patients with radicular pain only. If there is a component of regional neck pain, therapeutic facet joint injections, facet nerve blocks, and trigger point injections may also be indicated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and physical findings after the course of initial nonsurgical care, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. It must be provided within the parameters of subpart 11, item B, with the following modifications: the only surgical procedures indicated for patients with radicular pain are decompression of a cervical nerve root which must meet the parameters of subpart 6 and part 5221.6500, subpart 2, item B, and cervical arthrodesis, with or without instrumentation. For patients with failed surgery, dorsal column stimulators or morphine pumps may be indicated consistent with subpart 6, item C.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered, the patient refused surgical therapy, or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with radicular pain, with or without regional neck pain, with static neurologic changes must meet all of the parameters of part 5221.6600.

Subp. 13. **Specific treatment parameters for radicular pain, with or without regional neck pain, with progressive neurologic changes.**

A. Patients with radicular pain, with or without regional neck pain, with progressive neurologic deficits may require immediate or emergency evaluation at any time during the course of their overall treatment. The decision to proceed with surgical evaluation is made by the health care provider based on the type of neurologic changes observed, the severity of the changes, the rate of progression of the changes, and the response to any nonsurgical treatments. Surgery, if indicated, may be performed at any time during the course of treatment. Surgical evaluation and surgery shall be provided within the parameters of subpart 11, item B, with the following modifications:

(1) surgical evaluation and surgical therapy may begin at any time; and

(2) the only surgical procedures indicated for patients with radicular pain are decompression of a cervical nerve root which must meet the parameters of subpart 6 and part 5221.6500, subpart 2, item B, or cervical arthrodesis, with or without instrumentation. For patients with failed back surgery, dorsal column stimulators or morphine pumps may be indicated consistent with the parameters of subpart 6, item C.

B. If the health care provider decides to proceed with a course of nonsurgical care for a patient with radicular pain with progressive neurologic changes, it must follow the parameters of subpart 12, item A.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refuses surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily

life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with radicular pain, with or without regional neck pain, with progressive neurologic changes at first presentation must meet all of the parameters of part 5221.6600.

Subp. 14. **Specific treatment parameters for myelopathy.**

A. Patients with myelopathy may require emergency surgical evaluation at any time during the course of their overall treatment. The decision to proceed with surgical evaluation is made by the health care provider based on the type of neurologic changes observed, the severity of the changes, the rate of progression of the changes, and the response to any nonsurgical treatments. Surgery, if indicated, may be performed at any time during the course of treatment. Surgical evaluation and surgery shall be provided within the parameters of subpart 11, item B, with the following modifications:

(1) surgical evaluation and surgical therapy may begin at any time; and

(2) the only surgical procedures indicated for patients with myelopathy are anterior or posterior decompression of the spinal cord, or cervical arthrodesis with or without instrumentation. For patients with failed back surgery, dorsal column stimulators or morphine pumps may be indicated consistent with the parameters of subpart 6, item C.

B. If the health care provider decides to proceed with a course of nonsurgical care for a patient with myelopathy, it must follow the parameters of subpart 12, item A.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refuses surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with myelopathy must meet all of the parameters of part 5221.6600.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6210 THORACIC BACK PAIN.

Subpart 1. **Diagnostic procedures for treatment of thoracic back injury.** A health care provider shall determine the nature of the condition before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must assign the patient at each visit to the consistency appropriate clinical category according to subitems (1) to (4). The diagnosis must be documented in the medical record. For the purposes of subitems (2) and (3), "radicular pain" means pain radiating in a dermatomal distribution around the chest or abdomen. This part does not apply to fractures of the thoracic spine or thoracic back pain due to an infectious, immunologic, metabolic, endocrine, neurologic, visceral, or neoplastic disease process.

(1) Regional thoracic back pain includes the diagnoses of thoracic strain, sprain, myofascial syndrome, musculoligamentous injury, soft tissue injury, and any other diagnosis for pain believed to originate in the discs, ligaments, muscles, or other soft tissues of the thoracic spine and which effects the thoracic region, including, but not limited to, ICD-9-CM codes 720 to 720.9, 721 to 721.0, 721.5 to 721.90, 722.3 to 722.30, 722.4, 722.6, 722.9 to 722.91, 723 to 723.3, 723.5 to 723.9, 724.5, 724.8, 724.9, 732.0, 737 to 737.9, 738.4, 738.5, 739.1, 756.1 to 756.19, 847 to 847.0, 920, 922.3, 925, and 926.1 to 926.12.

(2) Radicular pain, with or without regional thoracic back pain, includes the diagnoses of thoracic radiculopathy, radiculitis, or neuritis; displacement or herniation of intervertebral disc with radiculopathy, radiculitis, or neuritis; spinal stenosis with radiculopathy, radiculitis, or neuritis; and any other diagnoses for pain believed to originate with irritation of a nerve root in the thoracic spine, including, but not limited to, the ICD-9-CM codes 721.1, 721.91, 722 to 722.0, 722.2, 722.7 to 722.71, 723.4, and 724 to 724.00.

(3) Thoracic compressive myelopathy, with or without radicular pain, is a condition characterized by weakness and spasticity in one or both legs and

associated with any of the following: exaggerated reflexes, an extensor plantar response, bowel or bladder dysfunction, sensory ataxia, or bilateral sensory changes.

B. Laboratory tests are not indicated in the evaluation of a patient with regional thoracic back pain, or radicular pain, except when a patient's history, age, or examination suggests infection, metabolic-endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders, such as rheumatoid arthritis or ankylosing spondylitis, or side effects of medications. Laboratory tests may be ordered at any time the health care provider suspects any of these conditions, but the health care provider must justify the need for the tests ordered with clear documentation of the indications. Laboratory tests may also be ordered as part of a preoperative evaluation.

C. Medical imaging evaluation of the thoracic spine must be based on the findings of the history and physical examination and cannot be ordered prior to the health care provider's clinical evaluation of the patient. Medical imaging may not be performed as a routine procedure and must comply with all of the standards in part 5221.6100, subpart 1. The health care provider must document the appropriate indications for any medical imaging studies obtained.

D. EMG and nerve conduction studies are always inappropriate for regional thoracic back pain and radicular pain under item A, subitems (1) to (3).

E. The use of the following procedures or tests is not indicated for the diagnosis of any of the clinical categories in item A:
   (1) surface electromyography or surface paraspinal EMG;
   (2) thermography;
   (3) plethysmography;
   (4) electronic X-ray analysis of plain radiographs;
   (5) diagnostic ultrasound of the spine; or
   (6) somatosensory evoked potentials (SSEP) and motor evoked potentials (MEP).

F. Computerized range of motion or strength measuring tests are not reimbursable during the period of initial nonsurgical care, but may be reimbursable during a period of chronic management when used in conjunction with a computerized exercise program, work hardening program, or work conditioning program. During the period of initial nonoperative care computerized range of motion or strength testing can be performed but must be done in conjunction with and shall not be reimbursed separately from an office visit, chiropractic evaluation or treatment, or physical or occupational therapy evaluation or treatment.

G. Personality or psychological evaluations may be a useful tool for evaluating patients who continue to have problems despite appropriate care. The treating health care provider may perform this evaluation or may refer the patient for consultation with another health care provider in order to obtain a psychological evaluation. These evaluations may be used to assess the patient for a number of psychological conditions which may interfere with recovery from the injury. Since more than one of these psychological conditions may be present in a given case, the health care provider performing the evaluation must consider all of the following:
   (1) Is symptom magnification occurring?
   (2) Does the patient exhibit an emotional reaction to the injury, such as depression, fear, or anger, which is interfering with recovery?
   (3) Are there other personality factors or disorders which are interfering with recovery?
   (4) Is the patient chemically dependent?
   (5) Are there any interpersonal conflicts interfering with recovery?
   (6) Does the patient have a chronic pain syndrome or psychogenic pain?
   (7) In cases in which surgery is a possible treatment, are psychological factors, such as those listed in subitems (1) to (6), likely to interfere with the potential benefit of the surgery?

H. Diagnostic analgesic blocks or injection studies include facet joint injection, facet nerve block, epidural differential spinal block, nerve block, and nerve root block.
   (1) These procedures are used to localize the source of pain prior to surgery and to diagnose conditions which fail to respond to initial nonoperative care.
   (2) These blocks and injections are invasive and when done as diagnostic procedures only are not indicated unless noninvasive procedures have failed to establish the diagnosis.
   (3) Selection of patients, choice of procedure, and localization of the level of injection should be determined by documented clinical findings indicating possible pathologic conditions and the

source of pain symptoms.

(4) These blocks and injections can also be used as therapeutic modalities and as such are subject to the guidelines of subpart 5.

I. Functional capacity assessment or evaluation is a comprehensive and objective assessment of a patient's ability to perform work tasks. The components of a functional capacity assessment or evaluation include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the requested information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.

(1) Functional capacity assessment or evaluation is not reimbursable during the period of initial nonoperative care.

(2) Functional capacity assessment or evaluation is reimbursable in either of the following circumstances:

(a) permanent activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to do a specific job.

J. Consultations with other health care providers can be initiated at any time by the treating health care provider consistent with standard medical practice.

Subp. 2. **General treatment parameters for thoracic back pain.**

A. All medical care for thoracic back pain, appropriately assigned to a category of subpart 1, item A, is determined by the diagnosis and clinical category in subpart 1, item A, to which the patient has been assigned. General parameters for treatment modalities are set forth in subparts 3 to 10. Specific treatment parameters for each clinical category are set forth in subparts 11 to 13, as follows:

(1) subpart 11 governs regional thoracic back pain;

(2) subpart 12 governs radicular pain; and

(3) subpart 13 governs myelopathy.

The health care provider must, at each visit, reassess the appropriateness of the clinical category assigned and reassign the patient if warranted by new clinical information including symptoms, signs, results of diagnostic testing, and opinions and information obtained from consultations with other health care providers. When the clinical category is changed the treatment plan must be appropriately modified to reflect the new clinical category. However, a change of clinical category does not in itself allow the health care provider to continue a therapy or treatment modality past the maximum duration specified in items C to F, or to repeat a therapy or treatment previously provided for the same injury.

B. In general, a course of treatment is divided into three phases.

(1) First, all patients with thoracic back problems, except patients with myelopathy under subpart 1, item A, subitem (3), must be given initial nonoperative care which may include active and passive treatment modalities, injections, durable medical equipment, and medications. These modalities and parameters are described in subparts 3, 4, 5, 8, and 10. The period of initial nonsurgical treatment begins with the first clinical passive, active, injection, durable medical equipment, or medication modality initiated. Initial nonsurgical treatment must result in progressive improvement as specified in subpart 9.

(2) Second, for patients with persistent symptoms, initial nonsurgical management is followed by a period of surgical evaluation. This evaluation should be completed in a timely manner. Surgery, if indicated, should be performed as expeditiously as possible consistent with sound medical practice and subparts 6 and 11 to 13, and part 5221.6500. The treating health care provider may do the evaluation, if it is within the provider's scope of practice, or may refer the employee to a consultant.

(a) Patients with myelopathy may require immediate surgical therapy.

(b) Any patient who has had surgery may require postoperative therapy with active and passive treatment modalities. This therapy may be in addition to any received during the period of initial nonsurgical care.

(c) Surgery must follow the parameters in subparts 6 and 11

to 13, and part 5221.6500.

(d) A decision against surgery at this time does not preclude a decision for surgery made at a later date in light of new clinical information.

(3) Third, for those patients who are not candidates for or refuse surgical therapy, or who do not have complete resolution of their symptoms with surgery, a period of chronic management may be indicated. Chronic management modalities are described in part 5221.6600, and may also include durable medical equipment as described in subpart 8.

C. A treating health care provider may refer the employee for a consultation at any time during the course of treatment consistent with accepted medical practice.

Subp. 3. **Passive treatment modalities.**

A. Except as set forth in item B or part 5221.6050, subpart 8, the use of passive treatment modalities in a clinical setting as set forth in items C to I is not indicated beyond 12 calendar weeks after any of the passive modalities in item C to I are initiated. There are no limitations on the use of passive treatment modalities by the employee at home.

B. (1) An additional 12 visits for the use of passive treatment modalities over an additional 12 months may be provided if all of the following apply:

(a) the employee is released to work or is permanently totally disabled and the additional passive treatment must result in progressive improvement in, or maintenance of, functional status achieved during the initial 12 weeks of passive care;

(b) the treatment must not be given on a regularly scheduled basis;

(c) the health care provider must document in the medical record a plan to encourage the employee's independence and decreased reliance on health care providers;

(d) management of the employee's condition must include active treatment modalities during this period;

(e) the additional 12 visits for passive treatment must not delay the required surgical or chronic pain evaluation required by this chapter; and

(f) passive care is inappropriate while the employee has chronic pain syndrome.

(2) Except as otherwise provided in part 5221.6050, subpart 8, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining employability; if the employee is permanently totally disabled, or if upon retirement the employee is eligible for ongoing medical benefits for the work injury, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining functional status.

C. Adjustment or manipulation of joints includes chiropractic and osteopathic adjustments or manipulations:

(1) time for treatment response, three to five treatments;

(2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and

(3) maximum treatment duration, 12 weeks.

D. Thermal treatment includes all superficial and deep heating modalities and cooling modalities. Superficial thermal modalities include hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, cold soaks, infrared, whirlpool, and fluidotherapy. Deep thermal modalities include diathermy, ultrasound, and microwave.

(1) Treatment given in a clinical setting:

(a) time for treatment response, two to four treatments;

(b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and

(c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.

(2) Home use of thermal modalities may be prescribed at any time during the course of treatment. Home use may only involve hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, and cold soaks which

can be applied by the patient without health care provider assistance. Home use of thermal modalities does not require any special training or monitoring, other than that usually provided by the health care provider during an office visit.

E. Electrical muscle stimulation includes galvanic stimulation, TENS, interferential, and microcurrent techniques.
   (1) Treatment given in a clinical setting:
      (a) time for treatment response, two to four treatments;
      (b) maximum treatment frequency, up to five times per week for the first one to three weeks decreasing in frequency thereafter; and
      (c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.
   (2) Home use of an electrical stimulation device may be prescribed at any time during a course of treatment. Initial use of an electrical stimulation device must be in a supervised setting in order to ensure proper electrode placement and patient education:
      (a) maximum time for patient education and training, up to three sessions; and
      (b) patient may use the electrical stimulation device for one month, at which time effectiveness of the treatment must be reevaluated by the health care provider before continuing home use of the device.

F. Mechanical traction:
   (1) Treatment given in a clinical setting:
      (a) time for treatment response, three treatments;
      (b) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and
      (c) maximum treatment duration, 12 weeks in a clinical setting but only if used in conjunction with other therapies.
   (2) Home use of a mechanical traction device may be prescribed as follow-up to use of traction in a clinical setting if it has proven to be effective treatment and is expected to continue to be effective treatment. Initial use of a mechanical traction device must be in a supervised setting in order to ensure proper patient education:
      (a) maximum time for patient education and training, one session; and
      (b) a patient may use the mechanical traction device for one month, at which time effectiveness of the treatment must be reevaluated by the health care provider before continuing home use of the device.

G. Acupuncture treatments. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure:
   (1) time for treatment response, three to five sessions;
   (2) maximum treatment frequency, up to three times per week for one to three weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

H. Manual therapy includes soft tissue and joint mobilization, therapeutic massage, and manual traction:
   (1) time for treatment response, three to five treatments;
   (2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

I. Phoresis includes iontophoresis and phonophoresis:
   (1) time for treatment response, three to five sessions;
   (2) maximum treatment frequency, up to three times per week for the first one to three weeks decreasing in frequency thereafter; and
   (3) maximum treatment duration, 12 weeks.

J. Bedrest. Prolonged restriction of activity and immobilization are detrimental to a patient's recovery. Bedrest should not be prescribed for more than seven days.

K. Spinal braces and other movement-restricting appliances. Bracing required for longer than two weeks must be accompanied by active muscle strengthening exercise to avoid deconditioning and prolonged disability:
   (1) time for treatment response, three days;
   (2) maximum treatment frequency, limited to intermittent use during times of increased physical stress or prophylactic use at work; and
   (3) maximum continuous duration, three weeks unless patient is status

postfusion.

Subp. 4. **Active treatment modalities.** Active treatment modalities must be used as set forth in items A to D. Use of active treatment modalities may extend past the 12-week limit on passive treatment modalities, so long as the maximum durations for the active treatment modalities are not exceeded.

A. Education must teach the patient about pertinent anatomy and physiology as it relates to spinal function for the purpose of injury prevention. Education includes training on posture, biomechanics, and relaxation. The maximum number of treatments is three visits, which includes an initial education and training session, and two follow-up visits.

B. Posture and work method training must instruct the patient in the proper performance of job activities. Topics include proper positioning of the trunk, back, and arms, use of optimum biomechanics in performing job tasks, and appropriate pacing of activities. Methods include didactic sessions, demonstrations, exercises, and simulated work tasks. The maximum number of treatments is three visits.

C. Worksite analysis and modification must examine the patient's work station, tools, and job duties. Recommendations are made for the alteration of the work station, selection of alternate tools, modification of job duties, and provision of adaptive equipment. The maximum number of treatments is three visits.

D. Exercise, which is important to the success of an initial nonsurgical treatment program and a return to normal activity, must include active patient participation in activities designed to increase flexibility, strength, endurance, or muscle relaxation. Exercise must, at least in part, be specifically aimed at the musculature of the thoracic spine. While aerobic exercise and extremity strengthening may be performed as adjunctive treatment this shall not be the primary focus of the exercise program.

Exercises shall be evaluated to determine if the desired goals are being attained. Strength, flexibility, and endurance shall be objectively measured. While the provider may objectively measure the treatment response as often as necessary for optimal care, after the initial evaluation the health care provider may not bill for the tests sooner than two weeks after the initial evaluation and monthly thereafter. Subitems (1) and (2) govern supervised and unsupervised exercise, except for computerized exercise programs and health clubs, which are governed by part 5221.6600.

(1) Supervised exercise. One goal of an exercise program must be to teach the patient how to maintain and maximize any gains experienced from exercise. Self-management of the condition must be promoted:

(a) maximum treatment frequency, three times per week for three weeks and should decrease with time thereafter; and

(b) maximum duration, 12 weeks.

(2) Unsupervised exercise must be provided in the least intensive setting appropriate to the goals of the exercise program and may supplement or follow the period of supervised exercise:

(a) maximum treatment frequency, one to three visits for instruction and monitoring; and

(b) there is no limit on the duration and frequency of exercise at home.

Subp. 5. **Therapeutic injections.** Injection modalities are indicated as set forth in items A to C. Use of injections may extend past the 12-week limit on passive treatment modalities, so long as the maximum treatment for injections is not exceeded.

A. Therapeutic injections include trigger points injections, facet joint injections, facet nerve blocks, sympathetic nerve blocks, epidurals, nerve root blocks, and peripheral nerve blocks. Therapeutic injections can only be given in conjunction with active treatment modalities directed to the same anatomical site.

(1) Trigger point injections:

(a) time for treatment response, within 30 minutes;

(b) maximum treatment frequency, once per week if a positive response to the first injection at that site. If subsequent injections at that site demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then trigger point injections should be redirected to other areas or discontinued. No more than three injections are reimbursable per patient visit; and

(c) maximum treatment, four injections to any one site.

(2) Facet joint injections or facet nerve blocks:

(a) time for treatment response, within one week;
(b) maximum treatment frequency, once every two weeks if a positive response to the first injection or block. If subsequent injections or blocks demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections or blocks should be discontinued. Only three injections or blocks are reimbursable per patient visit; and
(c) maximum treatment, three injections or blocks to any one site.

(3) Nerve root blocks:
(a) time for treatment response, within one week;
(b) maximum treatment frequency, can repeat injection two weeks after the previous injection if a positive response to the first block. Only three injections are reimbursable per patient visit; and
(c) maximum treatment, two blocks to any one site.

(4) Epidural injections:
(a) time for treatment response, within one week;
(b) maximum treatment frequency, once every two weeks if a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections should be discontinued. Only one injection is reimbursable per patient visit; and
(c) maximum treatment, three injections.

B. Permanent lytic or sclerosing injections, including radio frequency denervation of the facet joints. These injections can only be given in conjunction with active treatment modalities directed to the same anatomical site:
(1) time for treatment response, within one week;
(2) optimum treatment frequency, may repeat once for any site; and
(3) maximum duration, two injections to any one site.

C. Prolotherapy and botulinum toxin injections are not indicated in the treatment of thoracic back problems and are not reimbursable.

Subp. 6. **Surgery, including decompression procedures.** Surgery may only be performed if it meets the specific parameters of subparts 11 to 13 and part 5221.6500. The health care provider must provide prior notification of nonemergency inpatient surgery according to part 5221.6050, subpart 9.

A. In order to optimize the beneficial effect of surgery, postoperative therapy with active and passive treatment modalities may be provided, even if these modalities had been used in the preoperative treatment of the condition. In the postoperative period the maximum treatment duration with passive treatment modalities in a clinical setting from the initiation of the first passive modality used, except bedrest or bracing, is as follows:
(1) eight weeks following decompression or implantation of a dorsal column stimulator or morphine pump; or
(2) 12 weeks following arthrodesis.

B. Repeat surgery must also meet the parameters of subparts 11 to 13 and part 5221.6500 and is not indicated unless the need for the repeat surgery is confirmed by a second opinion obtained before surgery, if a second opinion is requested by the insurer.

C. The surgical therapies in subitems (1) and (2) have very limited application and require a second opinion which confirms that the treatment is indicated and within the parameters listed, and a personality or psychosocial evaluation which indicates that the patient is likely to benefit from the treatment.
(1) Dorsal column stimulator is indicated for a patient who has neuropathic pain, and is not a candidate for any other invasive therapy, and has had a favorable response to a trial screening period.
(2) Morphine pump is indicated for a patient who has somatic pain, and is not a candidate for any other invasive therapy, and has had a favorable response to a trial screening period.

Subp. 7. **Chronic management.** Chronic management of thoracic back pain must be provided according to the parameters of part 5221.6600.

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in certain specific situations, as specified in items A to D. The health care provider must provide the insurer with prior notification as required by items B and C, according to part 5221.6050, subpart 9.

A. Braces or supports may be indicated within the parameters of subpart 3, item K.

B. For patients using electrical stimulation or mechanical traction devices at home, the device and any required supplies are indicated within the parameters of subpart 3, items E and F. Prior notification of the insurer is required for purchase of the device or for use longer than one month. The insurer may provide equipment if it is comparable to that prescribed by the health care provider.

C. Exercise equipment for home use, including bicycles, treadmills, and stairclimbers, are indicated only within the context of a program or plan of an approved chronic management program. This equipment is not indicated during initial nonoperative care or during reevaluation and surgical therapy. Prior notification of the insurer is required for the purchase of home exercise equipment. The insurer may decide which brand of a prescribed type of exercise equipment is provided to the patient. If the employer has an appropriate exercise facility on its premises with the prescribed equipment, the insurer may mandate the use of that facility instead of authorizing purchase of equipment for home use.

(1) Indications: the patient is deconditioned and requires reconditioning which can be accomplished only with the use of the prescribed exercise equipment. The health care provider must document specific reasons why the exercise equipment is necessary and cannot be replaced with other activities.

(2) Requirements: the use of the equipment must have specific goals and there must be a specific set of prescribed activities.

D. The following durable medical equipment is not indicated for home use for thoracic back pain conditions:

(1) whirlpools, Jacuzzis, hot tubs, special bath or shower attachments; or

(2) beds, waterbeds, mattresses, chairs, recliners, or loungers.

Subp. 9. **Evaluation of treatment by health care provider.** The health care provider must evaluate at each visit whether the treatment is medically necessary, and must evaluate whether initial nonsurgical management is effective according to items A to C. No later than the time for treatment response established for the specific modality as specified in subparts 3, 4, and 5, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality is resulting in progressive improvement as specified in items A to C:

A. the employee's subjective complaints of pain or disability are progressively improving, as evidenced by documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

B. the objective clinical findings are progressively improving, as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of injury; and

C. the employee's functional status, especially vocational activity, is progressively improving, as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive limitations on activity.

If there is not progressive improvement in at least two items of items A to C, the modality must be discontinued or significantly modified or the provider must reconsider the diagnosis. The evaluation of the effectiveness of the treatment modality can be delegated to an allied health professional working under the direction of the treating health care provider but remains the ultimate responsibility of the treating health care provider.

Subp. 10. **Scheduled and nonscheduled medication.** Prescription of controlled substance medications scheduled under Minnesota Statutes, section 152.02, including, without limitation, narcotics, is indicated only for the treatment of severe acute pain. These medications are not indicated in the treatment of patients with regional thoracic back pain after the first two weeks.

Patients with radicular pain may require longer periods of treatment.

The health care provider must document the rationale for the use of any scheduled medication. Treatment with nonnarcotic medication may be appropriate during any phase of treatment and intermittently after all other treatment has been discontinued. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

Subp. 11. **Specific treatment parameters for regional thoracic back pain.**

A. Initial nonsurgical treatment must be the first phase of treatment for all patients with regional thoracic back pain under subpart 1, item A, subitem (1).

(1) The active, passive, injection, durable

medical equipment, and medication treatment modalities and procedures in subparts 3, 4, 5, 8, and 10, may be used in sequence or simultaneously during the period of initial nonsurgical management, depending on the severity of the condition.

(2) The only therapeutic injections indicated for patients with regional thoracic back pain are trigger point injections, facet joint injections, facet nerve blocks, and epidural blocks, and their use must meet the parameters of subpart 5.

(3) After the first week of treatment, initial nonsurgical management must at all times contain active treatment modalities according to the parameters of subpart 4.

(4) Initial nonsurgical treatment must be provided in the least intensive setting consistent with quality health care practices.

(5) Except as provided in subpart 3, passive treatment modalities in a clinic setting or requiring attendance by a health care provider are not indicated beyond 12 weeks after any passive modality other than bedrest or bracing is first initiated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and objective physical findings after the course of initial nonsurgical care, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. The purpose of surgical evaluation is to determine whether surgery is indicated in the treatment of a patient who has failed to recover with initial nonsurgical care. If the patient is not a surgical candidate, then chronic management is indicated.

(1) Surgical evaluation may begin as soon as eight weeks after, but must begin no later than 12 weeks after, beginning initial nonsurgical management. An initial recommendation or decision against surgical therapy does not preclude surgery at a later date.

(2) Surgical evaluation may include the use of appropriate medical imaging techniques. The imaging technique must be chosen on the basis of the suspected etiology of the patient's condition but the health care provider must follow the parameters of part 5221.6100. Medical imaging studies which do not meet these parameters are not indicated.

(3) Surgical evaluation may also include diagnostic blocks and injections. These blocks and injections are only indicated if their use is consistent with the parameters of subpart 1, item H.

(4) Surgical evaluation may also include personality or psychosocial evaluation, consistent with the parameters of subpart 1, item G.

(5) Consultation with other health care providers may be appropriate as part of the surgical evaluation. The need for consultation and the choice of consultant will be determined by the findings on medical imaging, diagnostic analgesic blocks and injections, if performed, and the patient's ongoing subjective complaints and objective physical findings.

(6) The only surgical procedure indicated for patients with regional thoracic back pain only is thoracic arthrodesis with or without instrumentation, which must meet the parameters of subpart 6, and part 5221.6500, subpart 2, item C.

For patients with failed surgery, dorsal column stimulators or morphine pumps may be indicated consistent with subpart 6, item C.

(a) If surgery is indicated, it should be offered to the patient as soon as possible. If the patient agrees to the proposed surgery it should be performed as expeditiously as possible consistent with sound medical practice, and consistent with any requirements of parts 5221.6010 to 5221.6500 for prior notification of the insurer or second opinions.

(b) If surgery is not indicated or if the patient does not wish to proceed with surgery, then the patient is a candidate for chronic management.

C. If the patient continues with symptoms and objective physical findings after surgery has been rendered or the patient refuses surgery or the patient was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management according to the parameters of part 5221.6600.

Subp. 12. **Specific treatment parameters**

for radicular pain.

A. Initial nonsurgical treatment is appropriate for all patients with radicular pain under subpart 1, item A, subitem (2), and must be the first phase of treatment. It must be provided within the parameters of subpart 11, item A, with the following modifications: epidural blocks and nerve root and peripheral nerve blocks are the only therapeutic injections indicated for patients with radicular pain only. If there is a component of regional thoracic back pain, therapeutic facet joint injections, facet nerve blocks, and trigger point injections may also be indicated.

B. Surgical evaluation or chronic management is indicated if the patient continues with symptoms and physical findings after the course of initial nonsurgical care, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities. It shall be provided within the parameters of subpart 11, item B, with the following modifications: the only surgical procedures indicated for patients with radicular pain are decompression or arthrodesis. For patients with failed surgery, dorsal column stimulators or morphine pumps may be indicated consistent with subpart 6, item C.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refused surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with radicular pain, with or without regional thoracic back pain, must meet all of the parameters of part 5221.6600.

Subp. 13. **Specific treatment parameters for myelopathy.**

A. Patients with myelopathy may require emergency surgical evaluation at any time during the course of their overall treatment. The decision to proceed with surgical evaluation is made by the health care provider based on the type of neurologic changes observed, the severity of the changes, the rate of progression of the changes, and the response to any nonsurgical treatments. Surgery, if indicated, may be performed at any time during the course of treatment. Surgical evaluation and surgery shall be provided within the parameters of subpart 11, item B, with the following modifications:

(1) surgical evaluation and surgical therapy may begin at any time; and

(2) the only surgical procedures indicated for patients with myelopathy are decompression and arthrodesis. For patients with failed surgery, dorsal column stimulators or morphine pumps may be indicated consistent with subpart 6, item C.

B. If the health care provider decides to proceed with a course of nonsurgical care for a patient with myelopathy, it must follow the parameters of subpart 12, item A.

C. If the patient continues with symptoms and objective physical findings after surgical therapy has been rendered or the patient refuses surgical therapy or the patient was not a candidate for surgical therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with myelopathy must meet all of the parameters of part 5221.6600.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6300 UPPER EXTREMITY DISORDERS.

Subpart 1. **Diagnostic procedures for treatment of upper extremity disorders (UED).** A health care provider shall determine the nature of an upper extremity disorder before initiating treatment.

A. An appropriate history and physical examination must be performed and documented. Based on the history and physical examination the health care provider must at each visit assign the patient to the appropriate clinical category according to subitems (1) to (6). The diagnosis must be documented in the medical record. Patients may have multiple disorders requiring assignment to more than one clinical category. This part does not apply to upper extremity conditions due to a visceral, vascular, infectious, immunological, metabolic, endocrine, systemic neurologic, or neoplastic disease process, fractures, lacerations, amputations, or sprains or strains with complete tissue disruption.

(1) Epicondylitis. This clinical category

includes medial epicondylitis and lateral epicondylitis, ICD-9-CM codes 726.31 and 726.32.

(2) Tendonitis of the forearm, wrist, and hand. This clinical category encompasses any inflammation, pain, tenderness, or dysfunction or irritation of a tendon, tendon sheath, tendon insertion, or musculotendinous junction in the upper extremity at or distal to the elbow due to mechanical injury or irritation, including, but not limited to, the diagnoses of tendonitis, tenosynovitis, tendovaginitis, peritendinitis, extensor tendinitis, de Quervain's syndrome, intersection syndrome, flexor tendinitis, and trigger digit, including, but not limited to, ICD-9-CM codes 726.4, 726.5, 726.8, 726.9, 726.90, 727, 727.0, 727.00, 727.03, 727.04, 727.05, and 727.2.

(3) Nerve entrapment syndromes. This clinical category encompasses any compression or entrapment of the radial, ulnar, or median nerves, or any of their branches, including, but not limited to, carpal tunnel syndrome, pronator syndrome, anterior interosseous syndrome, cubital tunnel syndrome, Guyon's canal syndrome, radial tunnel syndrome, posterior interosseous syndrome, and Wartenburg's syndrome, including, but not limited to, ICD-9-CM codes 354, 354.0, 354.1, 354.2, 354.3, 354.8, and 354.9.

(4) Muscle pain syndromes. This clinical category encompasses any painful condition of any of the muscles of the upper extremity, including the muscles responsible for movement of the shoulder and scapula, characterized by pain and stiffness, including, but not limited to, the diagnoses of chronic nontraumatic muscle strain, repetitive strain injury, cervicobrachial syndrome, tension neck syndrome, overuse syndrome, myofascial pain syndrome, myofasciitis, nonspecific myalgia, fibrositis, fibromyalgia, and fibromyositis, including, but not limited to, ICD-9-CM codes 723.3, 729.0, 729.1, 729.5, 840, 840.3, 840.5, 840.6, 840.8, 840.9, 841, 841.8, 841.9, and 842.

(5) Shoulder impingement syndromes, including tendonitis, bursitis, and related conditions. This clinical category encompasses any inflammation, pain, tenderness, dysfunction, or irritation of a tendon, tendon insertion, tendon sheath, musculotendinous junction, or bursa in the shoulder due to mechanical injury or irritation, including, but not limited to, the diagnoses of impingement syndrome, supraspinatus tendonitis, infraspinatus tendonitis, calcific tendonitis, bicipital tendonitis, subacromial bursitis, subcoracoid bursitis, subdeltoid bursitis, and rotator cuff tendinitis, including, but not limited to, ICD-9-CM codes 726.1 to 726.2, 726.9, 726.90, 727 to 727.01, 727.2, 727.3, 840, 840.4, 840.6, 840.8, and 840.9.

(6) Traumatic sprains or strains of the upper extremity. This clinical category encompasses an instantaneous or acute injury, as a result of a single precipitating event to the ligaments or the muscles of the upper extremity including, without limitation, ICD-9-CM codes 840 to 842.19. Injuries to muscles as a result of repetitive use, or occurring gradually over time without a single precipitating trauma, are considered muscle pain syndromes under subitem (4). Injuries with complete tissue disruption are not subject to this parameter.

B. Certain laboratory tests may be indicated in the evaluation of a patient with upper extremity disorder to rule out infection, metabolic-endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders such as rheumatoid arthritis, or side effects of medications.

Laboratory tests may be ordered at any time the health care provider suspects any of these conditions, but the health care provider must justify the need for the tests ordered with clear documentation of the indications.

C. Medical imaging evaluation of upper extremity disorders must be based on the findings of the history and physical examination and cannot be ordered before the health care provider's clinical evaluation of the patient. Medical imaging may not be performed as a routine procedure and must comply with the standards in part 5221.6100, subpart 1. The health care provider must document the appropriate indications for any medical imaging studies obtained.

D. EMG and nerve conduction studies are

only appropriate for nerve entrapment disorders and recurrent nerve entrapment after surgery.

E. The following diagnostic procedures or tests are not indicated for diagnosis of upper extremity disorders:
   (1) surface electromyography;
   (2) thermography; or
   (3) somatosensory evoked potentials (SSEP) and motor evoked potentials (MEP).

F. The following diagnostic procedures or tests are considered adjuncts to the physical examination and are not reimbursed separately from the office visit:
   (1) vibrometry;
   (2) neurometry;
   (3) Semmes-Weinstein monofilament testing; or
   (4) algometry.

G. Computerized range of motion or strength measuring tests are not indicated during the period of initial nonsurgical management, but may be indicated during the period of chronic management when used in conjunction with a computerized exercise program, work hardening program, or work conditioning program.

   During the period of initial nonsurgical management, computerized range of motion or strength testing can be performed but must be done in conjunction with and are not reimbursed separately from an office visit with a physician, chiropractic evaluation or treatment, or physical or occupational therapy evaluation or treatment.

H. Personality or psychosocial evaluations may be a useful tool for evaluating patients who continue to have problems despite appropriate initial nonsurgical care. The treating health care provider may perform this evaluation or may refer the patient for consultation with another health care provider in order to obtain a psychological evaluation. These evaluations may be used to assess the patient for a number of psychological conditions which may interfere with recovery from the injury. Since more than one of these psychological conditions may be present in a given case, the health care provider performing the evaluation must consider all of the following:
   (1) Is symptom magnification occurring?
   (2) Does the patient exhibit an emotional reaction to the injury, such as depression, fear, or anger, which is interfering with recovery?
   (3) Are there other personality factors or disorders which are interfering with recovery?
   (4) Is the patient chemically dependent?
   (5) Are there any interpersonal conflicts interfering with recovery?
   (6) Does the patient have a chronic pain syndrome or psychogenic pain?
   (7) In cases in which surgery is a possible treatment, are psychological factors likely to interfere with the potential benefit of the surgery?

I. Diagnostic analgesic blocks or injection studies.
   (1) These procedures are used to localize the source of pain and to diagnose conditions which fail to respond to appropriate initial nonsurgical management.
   (2) Selection of patients, choice of procedure, and localization of the site of injection should be determined by documented clinical findings indicating possible pathologic conditions and the source of pain symptoms.
   (3) These blocks and injections can also be used as therapeutic modalities and as such are subject to the parameters of subpart 5.

J. Functional capacity assessment or evaluation is a comprehensive and objective assessment of a patient's ability to perform work tasks. The components of a functional capacity assessment or evaluation include, but are not limited to, neuromusculoskeletal screening, tests of manual material handling, assessment of functional mobility, and measurement of postural tolerance. A functional capacity assessment or evaluation is an individualized testing process and the component tests and measurements are determined by the patient's condition and the required information. Functional capacity assessments and evaluations are performed to determine and report a patient's physical capacities in general or to determine work tolerance for a specific job, task, or work activity.
   (1) Functional capacity assessment or evaluation is not indicated during the first 12 weeks of initial nonsurgical treatment.
   (2) Functional capacity assessment or evaluation is indicated after the first 12 weeks of care in either of the following circumstances:
      (a) activity restrictions and capabilities must be identified; or

(b) there is a question about the patient's ability to return to do a specific job.

(3) A functional capacity evaluation is not appropriate to establish baseline performance before treatment, or for subsequent assessments, to evaluate change during or after treatment.

(4) Only one completed functional capacity evaluation is indicated per injury.

K. Consultations with other health care providers can be initiated at any time by the treating health care provider consistent with accepted medical practice.

Subp. 2. **General treatment parameters for upper extremity disorders.**

A. All medical care for upper extremity disorders, appropriately assigned to a category of subpart 1, item A, is determined by the diagnosis and clinical category in subpart 1, item A, to which the patient has been assigned. General parameters for treatment modalities are set forth in subparts 3 to 10. Specific treatment parameters for each clinical category are set forth in subparts 11 to 16 as follows:

(1) subpart 11 governs epicondylitis;

(2) subpart 12 governs tendonitis of the forearm, wrist, and hand;

(3) subpart 13 governs upper extremity nerve entrapment syndromes;

(4) subpart 14 governs upper extremity muscle pain syndromes;

(5) subpart 15 governs shoulder impingement syndromes; and

(6) subpart 16 governs traumatic sprains and strains of the upper extremity.

The health care provider must at each visit reassess the appropriateness of the clinical category assigned and reassign the patient if warranted by new clinical information including symptoms, signs, results of diagnostic testing and opinions, and information obtained from consultations with other health care providers. When the clinical category is changed the treatment plan must be appropriately modified to reflect the new clinical category and these changes must be recorded in the medical record. However, a change of clinical category does not in itself allow the health care provider to continue a therapy or treatment modality past the maximum duration specified in subparts 3 to 10, or to repeat a therapy or treatment previously provided for the same injury, unless the treatment or therapy is subsequently delivered to a different part of the body.

When treating more than one clinical category or body part for which the same treatment modality is appropriate, then the treatment modality should be applied simultaneously, if possible, to all indicated areas.

B. In general, a course of treatment must be divided into three phases:

(1) First, all patients with an upper extremity disorder must be given initial nonsurgical management, unless otherwise specified. Initial nonsurgical management may include any combination of the passive, active, injection, durable medical equipment, and medication treatment modalities listed in subparts 3, 4, 5, 8, and 10, appropriate to the clinical category. The period of initial nonsurgical treatment begins with the first passive, active, injection, durable medical equipment, or medication modality initiated. Initial nonsurgical treatment must result in progressive improvement as specified in subpart 9.

(2) Second, for patients with persistent symptoms, initial nonsurgical management is followed by a period of surgical evaluation. This evaluation should be completed in a timely manner. Surgery, if indicated, should be performed as expeditiously as possible consistent with sound medical practice and subparts 6 and 11 to 16, and part 5221.6500. The treating health care provider may do the evaluation, if it is within the provider's scope of practice, or may refer the employee to a consultant.

(a) Any patient who has had surgery may require postoperative therapy with active and passive treatment modalities. This therapy can be in addition to any received during the period of initial nonsurgical management.

(b) Surgery must follow the parameters in subparts 6 and 11 to 16, and part 5221.6500.

(c) A decision against surgery at this time does not preclude a decision for surgery made at a later date.

(3) Third, for those patients who are not candidates for surgery or refuse surgery, or who do not have complete resolution of their symptoms with surgery, a period of chronic management may be indicated.

Chronic management modalities are described in part 5221.6600, and may include durable medical equipment is described in subpart 8.

C. A treating health care provider may refer the employee for a consultation at any time during the course of treatment consistent with accepted medical practice.

Subp. 3. **Passive treatment modalities.**

A. Except as set forth in item B or part 5221.6050, subpart 8, the use of passive treatment modalities in a clinical setting as set forth in items C to H is not indicated beyond 12 calendar weeks after any of the passive modalities in item C to H are initiated. There are no limitations on the use of passive treatment modalities by the employee at home.

B. (1) An additional 12 visits for the use of passive treatment modalities over an additional 12 months may be provided if all of the following apply:

(a) the employee is released to work or is permanently totally disabled and the additional passive treatment must result in progressive improvement in, or maintenance of, functional status achieved during the initial 12 weeks of passive care;

(b) the treatment must not be given on a regularly scheduled basis;

(c) the health care provider must document in the medical record a plan to encourage the employee's independence and decreased reliance on health care providers;

(d) management of the employee's condition must include active treatment modalities during this period;

(e) the additional 12 visits for passive treatment must not delay the required surgical or chronic pain evaluation required by this chapter; and

(f) passive care is inappropriate while the employee has chronic pain syndrome.

(2) Except as otherwise provided in part 5221.6050, subpart 8, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining employability; if the employee is permanently totally disabled, or if upon retirement the employee is eligible for ongoing medical benefits for the work injury, treatment may continue beyond the additional 12 visits only after prior approval by the insurer, commissioner, or compensation judge based on documentation in the medical record of the effectiveness of further passive treatment in maintaining functional status.

C. Adjustment or manipulation of joints includes chiropractic and osteopathic adjustments or manipulations:

(1) time for treatment response, three to five treatments;

(2) maximum treatment frequency, up to five times per week the first one to two weeks decreasing in frequency thereafter; and

(3) maximum treatment duration, 12 weeks.

D. Thermal treatment includes all superficial and deep heating and cooling modalities. Superficial thermal modalities include hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, cold soaks, infrared, whirlpool, and fluidotherapy. Deep thermal modalities include diathermy, ultrasound, and microwave.

(1) Treatment given in a clinical setting:

(a) time for treatment response, two to four treatments;

(b) maximum treatment frequency, up to five times per week for the first one to three weeks, decreasing in frequency thereafter; and

(c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.

(2) Home use of thermal modalities may be prescribed at any time during the course of treatment. Home use may only involve hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, and cold soaks which can be applied by the patient without health care provider assistance. Home use of thermal modalities does not require any special training or monitoring, other than that usually provided by the health care provider during an office visit.

E. Electrical muscle stimulation includes galvanic stimulation, TENS, interferential, and microcurrent techniques.

(1) Treatment given in a clinical setting:

(a) time for treatment response, two to four treatments;
(b) maximum treatment frequency, up to five times per week for the first one to three weeks, decreasing in frequency thereafter; and
(c) maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given in conjunction with other therapies.

(2) Home use of an electrical stimulation device may be prescribed at any time during a course of treatment.
Initial use of an electrical stimulation device must be in a supervised setting in order to ensure proper electrode placement and patient education:
(a) time for patient education and training, one to three sessions; and
(b) patient may use the electrical stimulation device unsupervised for one month, at which time effectiveness of the treatment must be reevaluated by the provider before continuing home use of the device.

F. Acupuncture treatments. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure:
(1) time for treatment response, three to five sessions;
(2) maximum treatment frequency, up to three times per week for the first one to three weeks, decreasing in frequency thereafter; and
(3) maximum treatment duration, 12 weeks.

G. Phoresis includes phonopheresis and iontophoresis:
(1) time for treatment response, three to five sessions;
(2) maximum treatment frequency, up to three times per week for the first one to three weeks, decreasing in frequency thereafter; and
(3) maximum treatment duration is nine sessions of either iontophoresis or phonophoresis, or combination, to any one site, with a maximum duration of 12 weeks for all treatment.

H. Manual therapy includes soft tissue and joint mobilization and therapeutic massage:
(1) time for treatment response, three to five treatments;
(2) maximum treatment frequency, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and
(3) maximum treatment duration, 12 weeks.

I. Splints, braces, and other movement-restricting appliances. Bracing required for longer than two weeks must be accompanied by active motion exercises to avoid stiffness and prolonged disability:
(1) time for treatment response, ten days;
(2) maximum treatment frequency, limited to intermittent use during times of increased physical stress or prophylactic use at work; and
(3) maximum continuous duration, eight weeks. Prophylactic use is allowed indefinitely.

J. Rest. Prolonged restriction of activity and immobilization are detrimental to a patient's recovery. Total restriction of use of an affected body part should not be prescribed for more than two weeks, unless rigid immobilization is required. In cases of rigid immobilization, active motion exercises at adjacent joints should begin no later than two weeks after application of the immobilization.

Subp. 4. **Active treatment modalities.** Active treatment modalities must be used as set forth in items A to D. Use of active treatment modalities may extend past the 12-week limitation on passive treatment modalities so long as the maximum treatment for the active treatment modality is not exceeded.

A. Education must teach the patient about pertinent anatomy and physiology as it relates to upper extremity function for the purpose of injury prevention. Education includes training on posture, biomechanics, and relaxation. The maximum number of treatments is three visits, which include an initial education and training session, and two follow-up visits.

B. Posture and work method training must instruct the patient in the proper performance of job activities. Topics include proper positioning of the trunk, neck, and arms, use of optimum biomechanics in performing job tasks, and appropriate pacing of activities. Methods include didactic sessions, demonstrations, exercises, and simulated work tasks. The maximum number of treatments is three visits.

C. Worksite analysis and modification must examine the patient's work station, tools, and job duties. Recommendations are made for the alteration of the work station, selection of alternate tools, modification of job duties, and provision of adaptive

equipment. The maximum number of treatments is three visits.

D. Exercise, which is important to the success of a nonsurgical treatment program and a return to normal activity, must include active patient participation in activities designed to increase flexibility, strength, endurance, or muscle relaxation. Exercise must, at least in part, be specifically aimed at the musculature of the upper extremity. While aerobic exercise may be performed as adjunctive treatment this must not be the primary focus of the exercise program.

Exercises must be evaluated to determine if the desired goals are being attained. Strength, flexibility, or endurance must be objectively measured. While the provider may objectively measure the treatment response as often as necessary for optimal care, after the initial evaluation the health care provider may not bill for the testing sooner than two weeks after the initial evaluation and monthly thereafter.

Subitems (1) and (2) govern supervised and unsupervised exercise, except for computerized exercise programs and health clubs, which are governed by part 5221.6600.

(1) Supervised exercise. One goal of an exercise program must be to teach the patient how to maintain and maximize any gains experienced from exercise. Self-management of the condition must be promoted:

(a) maximum treatment frequency, up to three times per week for three weeks. Should decrease with time thereafter; and

(b) maximum duration, 12 weeks.

(2) Unsupervised exercise must be provided in the least intensive setting and may supplement or follow the period of supervised exercise.

Subp. 5. **Therapeutic injections.** Therapeutic injections include injections of trigger points, sympathetic nerves, peripheral nerves, and soft tissues. Therapeutic injections can only be given in conjunction with active treatment modalities directed to the same anatomical site. Use of injections may extend past the 12-week limitation on passive modalities, so long as the maximum treatment for injections in items A to C is not exceeded.

A. Trigger point injections:

(1) time for treatment response, within 30 minutes;

(2) maximum treatment frequency, once per week to any one site if a positive response to the first injection at that site. If subsequent injections at that site demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then trigger point injections should be redirected to other areas or discontinued. No more than three injections to different sites are reimbursable per patient visit; and

(3) maximum treatment, four injections to any one site over the course of treatment.

B. Soft tissue injections include injections of a bursa, tendon, tendon sheath, ganglion, tendon insertion, ligament, or ligament insertion:

(1) time for treatment response, within one week;

(2) maximum treatment frequency, once per month to any one site if a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections should be discontinued. Only three injections to different sites are reimbursable per patient visit; and

(3) maximum treatment, three injections to any one site over the course of treatment.

C. Injections for median nerve entrapment at the carpal tunnel:

(1) time for treatment response, within one week;

(2) maximum treatment frequency, can repeat injection in one month if a positive response to the first injection. Only three injections to different sites are reimbursable per patient visit; and

(3) maximum treatment, two injections to any one site over the course of treatment.

Subp. 6. **Surgery.** Surgery may only be performed if it meets applicable parameters in subparts 11 to 16 and part 5221.6500.

A. In order to optimize the beneficial effect of surgery, postoperative therapy with active and passive treatment modalities may be provided, even if these modalities had been used in the preoperative treatment of the condition. In the postoperative period the maximum treatment duration with passive treatment modalities in a clinical setting from initiation of the first passive modality used, except bedrest or bracing, is as follows:

(1) for rotator cuff repair, acromioclavicular ligament repair, or any surgery for a clinical category in this part which requires joint

reconstruction, 16 weeks; or

(2) for all other surgery for clinical categories in this part, eight weeks.

The health care provider must provide the insurer with prior notification of nonemergency inpatient surgery according to part 5221.6050, subpart 9.

B. Repeat surgery must also meet the parameters of subparts 11 to 16 and part 5221.6500 and is not indicated unless the need for the repeat surgery is confirmed by a second opinion obtained before surgery, if requested by the insurer.

Subp. 7. **Chronic management.** Chronic management of upper extremity disorders must be provided according to the parameters of part 5221.6600.

Subp. 8. **Durable medical equipment.** Durable medical equipment is indicated only in the situations specified in items A to D. The health care provider must provide the insurer with prior notification as required in items B and C and part 5221.6050, subpart 9.

A. Splints, braces, straps, or supports may be indicated as specified in subpart 3, item I.

B. For patients using an electrical stimulation device at home, the device and any required supplies are indicated within the parameters of subpart 3, item E. Prior notification of the insurer is required for purchase of the device or for use longer than one month. The insurer may provide the equipment if it is comparable to that prescribed by the health care provider.

C. Exercise equipment for home use, including bicycles, treadmills, and stairclimbers, are indicated only within the context of a program or plan of an approved chronic management program. This equipment is not indicated during initial nonsurgical care or during reevaluation and surgical therapy. Prior notification of the insurer is required for the purchase of home exercise equipment. The insurer may decide which brand of a prescribed type of equipment is provided to the patient. If the employer has an appropriate exercise facility on its premises with the prescribed equipment the insurer may mandate use of that facility instead of authorizing purchase of the equipment for home use.

(1) Indications: the patient is deconditioned and requires reconditioning which can be accomplished only with the use of the prescribed exercise equipment. The health care provider must document specific reasons why the exercise equipment is necessary and cannot be replaced with other activities.

(2) Requirements: the use of the equipment must have specific goals and there must be a specific set of prescribed activities.

D. The following durable medical equipment is not indicated for home use for the upper extremity disorders specified in subparts 11 to 16:

(1) whirlpools, Jacuzzi, hot tubs, and special bath or shower attachments; or

(2) beds, waterbeds, mattresses, chairs, recliners, and loungers.

Subp. 9. **Evaluation of treatment by health care provider.** The health care provider must evaluate at each visit whether the treatment is medically necessary and whether initial nonsurgical treatment is effective according to items A to C.

No later than the time for treatment response established for the specific modality as specified in subparts 3, 4, and 5, the health care provider must evaluate whether the passive, active, injection, or medication treatment modality is resulting in progressive improvement as specified in items A to C:

A. the employee's subjective complaints of pain or disability are progressively improving, as evidenced by documentation in the medical record of decreased distribution, frequency, or intensity of symptoms;

B. the objective clinical findings are progressively improving as evidenced by documentation in the medical record of resolution or objectively measured improvement in physical signs of injury; and

C. the employee's functional status, especially vocational activity, is progressively improving, as evidenced by documentation in the medical record, or successive reports of work ability, of less restrictive limitations on activity.

If there is not progressive improvement in at least two items in items A to C, the modality must be discontinued or significantly modified or the provider must reconsider the diagnosis. The evaluation of the effectiveness of the treatment modality can be delegated to an allied health professional directly providing the treatment, but remains the ultimate responsibility of the treating health care provider.

Subp. 10. **Scheduled and nonscheduled medication.** Prescription of controlled substance medications scheduled under Minnesota Statutes,

section 152.02, including, without limitation, narcotics, is indicated only for the treatment of severe acute pain. Therefore, these medications are not routinely indicated in the treatment of patients with upper extremity disorders. The health care provider must document the rationale for the use of any scheduled medication. Treatment with nonscheduled medication may be appropriate during any phase of treatment and intermittently after all other treatment has been discontinued. The prescribing health care provider must determine that ongoing medication is effective treatment for the patient's condition and the most cost-effective regimen is used.

Subp. 11. **Specific treatment parameters for epicondylitis.**

A. Initial nonsurgical management is appropriate for all patients with epicondylitis and must be the first phase of treatment.

(1) The passive, active, injection, durable medical equipment, and medication treatment modalities and procedures specified in subparts 3, 4, 5, 8, and 10, may be used in sequence or simultaneously during the period of initial nonsurgical management depending on the severity of the condition. After the first week of treatment, initial nonsurgical care must at all times include active treatment modalities according to subpart 4.

(2) Initial nonsurgical management must be provided in the least intensive setting consistent with quality health care practices.

(3) Except as provided in subpart 3, use of passive treatment modalities in a clinic setting or requiring attendance by a health care provider for a period in excess of 12 weeks is not indicated.

(4) Use of home-based treatment modalities with monitoring by the treating health care provider may continue for up to 12 months. At any time during this period the patient may be a candidate for chronic management if surgery is ruled out as an appropriate treatment.

B. If the patient continues with symptoms and objective physical findings after initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then surgical evaluation or chronic management is indicated. The purpose and goal of surgical evaluation is to determine whether surgery is indicated for the patient who has failed to recover with appropriate nonsurgical care or chronic management.

(1) Surgical evaluation, if indicated, must begin no later than 12 months after beginning initial nonsurgical management.

(2) Surgical evaluation may include the use of appropriate laboratory and electrodiagnostic testing within the parameters of subpart 1, if not already obtained during the initial evaluation. Repeat testing is not indicated unless there has been an objective change in the patient's condition which in itself would warrant further testing. Failure to improve with therapy does not, by itself, warrant further testing.

(3) Plain films may be appropriate if there is a history of trauma, infection, or inflammatory disorder and are subject to the general parameters in part 5221.6100, subpart 1. Other medical imaging studies are not indicated.

(4) Surgical evaluation may also include personality or psychological evaluation consistent with the parameters of subpart 1, item H.

(5) Consultation with other health care providers is an important part of surgical evaluation of a patient who fails to recover with appropriate initial nonsurgical management. The need for consultation and the choice of consultant will be determined by the diagnostic findings and the patient's condition. Consultation is governed by part 5221.6050, subpart 6.

(6) If surgery is indicated, it may not be performed until 12 months after initial nonsurgical management was begun except in a patient who has had resolution of symptoms with appropriate treatment followed by a recurrence with intractable pain. In this instance, a second surgical opinion must confirm the need for surgery sooner than 12 months after initial nonsurgical management was begun.

(7) If surgery is not indicated, or if the patient does not wish to proceed with surgery, then the patient is a candidate for chronic management. An initial recommendation or decision against surgery does not preclude surgery at a later date.

C. If the patient continues with symptoms and objective physical findings after surgery or the patient refused surgery or the patient

was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management according to part 5221.6600.

Subp. 12. **Specific treatment parameters for tendonitis of forearm, wrist, and hand.**

A. Except as provided in item B, subitem (3), initial nonsurgical management is appropriate for all patients with tendonitis and must be the first phase of treatment. Any course or program of initial nonsurgical management must meet all of the parameters of subpart 11, item A.

B. If the patient continues with symptoms and objective physical findings after initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then surgical evaluation or chronic management is indicated. Surgical evaluation and surgical therapy must meet all of the parameters of subpart 11, item B, with the modifications in subitems (1) to (3).

(1) For patients with a specific diagnosis of de Quervain's syndrome, surgical evaluation and surgical therapy, if indicated, may begin after only two months of initial nonsurgical management.

(2) For patients with a specific diagnosis of trigger finger or trigger thumb, surgical evaluation and potential surgical therapy may begin after only one month of initial nonsurgical management.

(3) For patients with a locked finger or thumb, surgery may be indicated immediately without any preceding nonsurgical management.

C. If the patient continues with symptoms and objective physical findings after surgery, or the patient refused surgery or the patient was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with tendonitis must meet all of the parameters of part 5221.6600.

Subp. 13. **Specific treatment parameters for nerve entrapment syndromes.**

A. Initial nonsurgical management is appropriate for all patients with nerve entrapment syndromes, except as specified in subitem (2), and must be the first phase of treatment. Any course or program of initial nonsurgical management must meet all of the parameters of subpart 11, item A, with the following modifications: nonsurgical management may be inappropriate for patients with advanced symptoms and signs of nerve compression, such as abnormal two-point discrimination, motor weakness, or muscle atrophy, or for patients with symptoms of nerve entrapment due to acute trauma. In these cases, immediate surgical evaluation may be indicated.

B. If the patient continues with symptoms and objective physical findings after 12 weeks of initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then surgical evaluation or chronic management is indicated. Surgical evaluation and surgical therapy must meet all of the parameters of subpart 11, item B, with the modifications in subitems (1) to (3).

(1) Surgical evaluation may begin, and surgical therapy may be provided, if indicated, after 12 weeks of initial nonsurgical management, except where immediate surgical evaluation is indicated under item A.

(2) Surgery is indicated if an EMG confirms the diagnosis, or if there has been temporary resolution of symptoms lasting at least seven days with local injection.

(3) If there is neither a confirming EMG or appropriate response to local injection, or if surgery has been previously performed at the same site, surgery is not indicated unless a second opinion confirms the need for surgery.

C. If the patient continues with symptoms and objective physical findings after all surgery, or the patient refused surgery therapy or the patient was not a candidate for surgery therapy, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with nerve entrapment syndromes must meet all of the parameters of part 5221.6600.

Subp. 14. **Specific treatment parameters**

for muscle pain syndromes.

A. Initial nonsurgical management is appropriate for all patients with muscle pain syndromes and must be the first phase of treatment. Any course or program of initial nonsurgical management must meet all of the parameters of subpart 11, item A.

B. Surgery is not indicated for the treatment of muscle pain syndrome.

C. If the patient continues with symptoms and objective physical findings after initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with muscle pain syndrome must meet all of the parameters of part 5221.6600.

Subp. 15. **Specific treatment parameters for shoulder impingement syndromes.**

A. Initial nonsurgical management is appropriate for all patients with shoulder impingement syndromes without clinical evidence of rotator cuff tear and must be the first phase of treatment. Any course or program of initial nonsurgical management must meet all of the parameters of subpart 11, item A, except as follows:

(1) continued nonsurgical management may be inappropriate, and early surgical evaluation may be indicated, for patients with:

(a) clinical findings of rotator cuff tear; or

(b) acute rupture of the proximal biceps tendon;

(2) use of home-based treatment modalities with monitoring by the health care provider may continue for up to six months. At any time during this period the patient may be a candidate for chronic management if surgery is ruled out as an appropriate treatment.

B. If the patient continues with symptoms and objective physical findings after six months of initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then surgical evaluation or chronic management is indicated. Surgical evaluation and surgical therapy must meet all of the parameters of subpart 11, item B, with the modifications in subitems (1) to (3).

(1) Surgical evaluation must begin no later than six months after beginning initial nonsurgical management.

(2) Diagnostic injection, arthrography, CT-arthrography, or MRI scanning may be indicated as part of the surgical evaluation.

(3) The only surgical procedures indicated for patients with shoulder impingement syndrome and related conditions are rotator cuff repair, acromioplasty, excision of distal clavicle, excision of bursa, removal of adhesion, or repair of proximal biceps tendon, all of which must meet the parameters of part 5221.6500, subpart 3.

C. If the patient continues with symptoms and objective physical findings after surgery, or the patient refused surgery or was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management for patients with shoulder impingement syndrome must meet the parameters of part 5221.6600.

Subp. 16. **Specific treatment parameters for traumatic sprains and strains of the upper extremity.**

A. Initial nonsurgical management must be the first phase of treatment for all patients with traumatic sprains and strains of the upper extremity without evidence of complete tissue disruption. Any course or program of initial nonsurgical management must meet all of the parameters of subpart 11.

B. Surgery is not indicated for the treatment of traumatic sprains and strains, unless there is clinical evidence of complete tissue disruption. Patients with complete tissue disruption may need immediate surgery.

C. If the patient continues with symptoms and objective physical findings after 12 weeks of initial nonsurgical management, and if the patient's condition prevents the resumption of the regular activities of daily life, including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management must meet all of the parameters of part 5221.6600.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6305 REFLEX SYMPATHETIC DYSTROPHY OF THE UPPER AND LOWER EXTREMITIES.

Subpart 1. **Scope.**

A. This clinical category encompasses any condition of the upper or lower extremity characterized by concurrent presence in the involved extremity of five of the following conditions: edema; local skin color change of red or purple; osteoporosis in underlying bony structures demonstrated by radiograph; local dyshidrosis; local abnormality of skin temperature regulation; reduced passive range of motion in contiguous joints; local alteration of skin texture of smooth or shiny; or typical findings of reflex sympathetic dystrophy on bone scan. This clinical category includes, but is not limited to, the diagnoses of reflex sympathetic dystrophy, causalgia, Sudek's atrophy, algoneurodystrophy, and shoulder-hand syndrome, and including, but not limited to, ICD-9-CM codes 337.9, 354.4, and 733.7.

B. Reflex sympathetic dystrophy occurs as a complication of another preceding injury. The treatment parameters of this part refer to the treatment of the body part affected by the reflex sympathetic dystrophy. The treatment for any condition not affected by reflex sympathetic dystrophy continues to be subject to whatever treatment parameters otherwise apply. Any treatment under this part for the reflex sympathetic dystrophy may be in addition to treatment received for the original condition.

C. Thermography may be used in the diagnosis of reflex sympathetic dystrophy, but is considered an adjunct to physical examination and is not reimbursed separately from the office visit.

Subp. 2. **Initial nonsurgical management.** Initial nonsurgical management is appropriate for all patients with reflex sympathetic dystrophy and must be the first phase of treatment. Any course or program of initial nonsurgical management is limited to the modalities specified in items A to D.

A. Therapeutic injection modalities. The only injections allowed for reflex sympathetic dystrophy are sympathetic block, intravenous infusion of steroids or sympatholytics, or epidural block.

(1) Unless medically contraindicated, sympathetic blocks or the intravenous infusion of steroids or sympatholytics must be used if reflex sympathetic dystrophy has continued for four weeks and the employee remains disabled as a result of the reflex sympathetic dystrophy.

(a) Time for treatment response: within 30 minutes.

(b) Maximum treatment frequency: can repeat an injection at a site if there was a positive response to the first injection. If subsequent injections demonstrate diminishing control of symptoms or fail to facilitate objective functional gains, then injections must be discontinued. No more than three injections to different sites are reimbursable per patient visit.

(c) Maximum treatment duration: may be continued as long as injections control symptoms and facilitate objective functional gains, if the period of improvement is progressively longer with each injection.

(2) Epidural block may only be performed in patients who had an incomplete improvement with sympathetic block or intravenous infusion of steroids or sympatholytics.

B. Only the passive treatment modalities set forth in subitems (1) to (4) are indicated. These passive treatment modalities in a clinical setting or requiring attendance by a health care provider are not indicated beyond 12 weeks from the first modality initiated for treatment of the reflex sympathetic dystrophy.

(1) Thermal treatment includes all superficial and deep heating and cooling modalities. Superficial thermal modalities include hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, cold soaks, infrared, whirlpool, and fluidotherapy. Deep thermal modalities include diathermy, ultrasound, and microwave.

(a) Treatment given in a clinical setting:

i. time for treatment response, two to four treatments;

ii. maximum treatment frequency, up to five times per week for the first one to three weeks, decreasing in frequency thereafter; and

iii. maximum treatment duration, 12 weeks of treatment in a clinical setting but only if given

in conjunction with other therapies specified in this subpart.

(b) Home use of thermal modalities may be prescribed at any time during the course of treatment. Home use may only involve hot packs, hot soaks, hot water bottles, hydrocollators, heating pads, ice packs, and cold soaks which can be applied by the patient without professional assistance. Home use of thermal modalities does not require any special training or monitoring, other than that usually provided by the health care provider during an office visit.

(2) Desensitizing procedures, such as stroking or friction massage, stress loading, and contrast baths:

(a) time for treatment response, three to five treatments;

(b) maximum treatment frequency in a clinical setting, up to five times per week for the first one to two weeks decreasing in frequency thereafter; and

(c) maximum treatment duration in a clinical setting, 12 weeks. Home use of desensitizing procedures may be prescribed at any time during the course of treatment.

(3) Electrical stimulation includes galvanic stimulation, TENS, interferential, and microcurrent techniques.

(a) Treatment given in a clinical setting:

i. time for treatment response, two to four treatments;

ii. maximum treatment frequency, up to five times per week for the first one to three weeks, decreasing in frequency thereafter; and

iii. maximum treatment duration, 12 weeks of treatment in a clinical setting, but only if given in conjunction with other therapies.

(b) Home use of an electrical stimulation device may be prescribed at any time during a course of treatment. Initial use of an electrical stimulation device must be in a supervised setting in order to ensure proper electrode placement and patient education:

i. time for patient education and training, one to three sessions; and

ii. patient may use the electrical stimulation device unsupervised for one month, at which time effectiveness of the treatment must be reevaluated by the provider before continuing home use of the device.

(4) Acupuncture treatments. Endorphin-mediated analgesic therapy includes classic acupuncture and acupressure:

(a) time for treatment response, three to five sessions;

(b) maximum treatment frequency, up to three times per week for the first one to three weeks, decreasing in frequency thereafter; and

(c) maximum treatment duration, 12 weeks.

C. Active treatment includes supervised and unsupervised exercise. After the first week of treatment, initial nonsurgical management must include exercise. Exercise is essential for a return to normal activity and must include active patient participation in activities designed to increase flexibility, strength, endurance, or muscle relaxation. Exercise must be specifically aimed at the involved musculature. Exercises must be evaluated to determine if the desired goals are being attained. Strength, flexibility, or endurance must be objectively measured. While the provider may objectively measure the treatment response as often as necessary for optimal care, after the initial evaluation the health care provider may not bill for the tests sooner than two weeks after the initial evaluation, and monthly thereafter.

(1) Supervised exercise. One goal of a supervised exercise program must be to teach the patient how to maintain and maximize any gains experienced from exercise. Self-management of the condition must be promoted:

(a) maximum treatment frequency, up to five times per week for three weeks. Should decrease in frequency thereafter; and

(b) maximum duration, 12 weeks.

(2) Unsupervised exercise must be provided in the least intensive setting and may supplement or follow the period of supervised exercise. Maximum duration is unlimited.

D. Oral medications may be indicated in

accordance with accepted medical practice.

Subp. 3. **Surgery.**

A. Surgical sympathectomy may only be performed in patients who had a sustained but incomplete improvement with sympathetic blocks by injection.

B. Dorsal column stimulator or morphine pump may be indicated for a patient with neuropathic pain unresponsive to all other treatment modalities who is not a candidate for any other therapy and has had a favorable response to a trial screening period. Use of these devices is indicated only if a second opinion confirms that this treatment is indicated, and a personality or psychosocial evaluation indicates that the patient is likely to benefit from this treatment.

Subp. 4. **Chronic management.** If the patient continues with symptoms and objective physical findings after surgery, or the patient refuses surgery, or the patient was not a candidate for surgery, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. Any course or program of chronic management must satisfy all of the treatment parameters of part 5221.6600.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6400 INPATIENT HOSPITALIZATION PARAMETERS.

Subpart 1. **General principles.**

A. The health care provider must provide prior notification of inpatient hospital admission for nonemergency care according to part 5221.6050, subpart 9. Hospitalization is characterized as inpatient if the patient spends at least one night in the hospital.

B. Treatment for emergency conditions, including incapacitating pain, should not be delayed to provide the insurer with prior notification. The admitting health care provider should notify the insurer within two business days following an emergency admission, or within two business days after the health care provider learns that it is a workers' compensation injury. The medical necessity for the emergency hospitalization is subject to retrospective review, based on the information available at the time of the emergency hospitalization.

C. Unless the patient's condition requires special care, only ward or semiprivate accommodations are indicated. The admitting health care provider must document the special care needs.

D. Admissions before the day of surgery are indicated only if they are medically necessary to stabilize the patient before surgery. Admission before the day of surgery to perform any or all of a preoperative work-up which could have been completed as an outpatient is not indicated.

E. Inpatient hospitalization solely for physical therapy, bedrest, or administration of injectable drugs is indicated only if the treatment is otherwise indicated and the patient's condition makes the patient unable to perform the activities of daily life and participate in the patient's own treatment and self-care.

F. Discharge from the hospital must be at the earliest possible date consistent with proper health care.

G. If transfer to a convalescent center or nursing home is indicated, prior notification is required as provided for inpatient hospitalization.

Subp. 2. **Specific requirements for hospital admission of patients with low back pain.** Hospitalization for low back pain is indicated in the circumstances in items A to D.

A. When the patient experiences incapacitating pain as evidenced by inability to mobilize for activities of daily living, for example unable to ambulate to the bathroom, and in addition, the intensity of service during admission meets the criteria in subitems (1) and (2).

(1) Physical therapy is necessary at least twice daily for assistance with mobility. Heat, cold, ultrasound, and massage therapy alone do not meet this criterion.

(2) Muscle relaxants or narcotic analgesics are necessary intramuscularly or intravenously for a minimum of three injections in 24 hours. Need for parenteral analgesics is determined by:

(a) an inability to take oral medications or diet (N.P.O.); or

(b) an inability to achieve relief with aggressive oral analgesics.

B. For surgery which is otherwise indicated according to part 5221.6500 and is appropriately scheduled as an inpatient procedure.

C. For evaluation and treatment of cauda

equina syndrome, according to part 5221.6200, subpart 13.

D. For evaluation and treatment of foot drop or progressive neurologic deficit, according to part 5221.6200, subpart 13.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6500 PARAMETERS FOR SURGICAL PROCEDURES.

Subpart 1. **General.**

A. The health care provider must provide prior notification according to part 5221.6050, subpart 9, before proceeding with any elective inpatient surgery.

B. Emergency surgery may proceed without prior notification. The reasonableness and necessity for the emergency surgery is subject to retrospective review based on the information available at the time of the emergency surgery.

Subp. 2. **Spinal surgery.** Initial nonsurgical, surgical, and chronic management parameters are also included in parts 5221.6200, low back pain; 5221.6205, neck pain; and 5221.6210, thoracic back pain.

A. Surgical decompression of a lumbar nerve root or roots includes, but is not limited to, the following lumbar procedures: laminectomy, laminotomy, discectomy, microdiscectomy, percutaneous discectomy, or foraminotomy. When providing prior notification for decompression of multiple nerve roots, the procedure at each nerve root is subject independently to the requirements of subitems (1) to (3).

(1) Diagnoses: surgical decompression of a lumbar nerve root may be performed for the following diagnoses:

(a) intractable and incapacitating regional low back pain with positive nerve root tension signs and an imaging study showing displacement of lumbar intervertebral disc which impinges significantly on a nerve root or the thecal sac, ICD-9-CM code 722.10;

(b) sciatica, ICD-9-CM code 724.3; or

(c) lumbosacral radiculopathy or radiculitis, ICD-9-CM code 724.4.

(2) Indications: both of the following conditions in units (a) and (b) must be satisfied to indicate that the surgery is reasonably required.

(a) Response to nonsurgical care: the employee's condition includes one of the following:

i. failure to improve with a minimum of eight weeks of initial nonsurgical care; or

ii. cauda equina syndrome, ICD-9-CM code 344.6, 344.60, or 344.61; or

iii. progressive neurological deficits.

(b) Clinical findings: the employee exhibits one of the findings of subunit i in combination with the test results of subunit ii or, in the case of diagnosis in subitem (1), unit (a), a second opinion confirms that decompression of the lumbar nerve root is the appropriate treatment for the patient's condition:

i. subjective sensory symptoms in a dermatomal distribution which may include radiating pain, burning, numbness, tingling, or paresthesia, or objective clinical findings of nerve root specific motor deficit, including, but not limited to, foot drop or quadriceps weakness, reflex changes, or positive EMG; and

ii. medical imaging test results that correlate with the level of nerve root involvement consistent with both the subjective and objective findings.

(3) Repeat surgical decompression of a lumbar nerve root is not indicated at the same nerve root unless a second opinion, if requested by the insurer, confirms that surgery is indicated.

B. Surgical decompression of a cervical nerve root. Surgical decompression of a cervical nerve root or roots includes, but is not limited to, the following cervical procedures: laminectomy, laminotomy, discectomy, foraminotomy with or without fusion. When providing prior notification for decompression of multiple nerve roots, the procedure at each nerve root is subject independently to the requirements of subitems (1) to (3).

(1) Diagnoses: surgical decompression of a cervical nerve root may be performed for the following diagnoses:

(a) displacement of cervical intervertebral disc, ICD-9-CM code

722.0, excluding fracture; or

(b) cervical radiculopathy or radiculitis, ICD-9-CM code 723.4, excluding fracture.

(2) Indications: the requirements in units (a) and (b) must be satisfied to indicate that surgery is reasonably required:

(a) response to nonsurgical care, the employee's condition includes one of the following:

i. failure to improve with a minimum of eight weeks of initial nonsurgical care;

ii. cervical compressive myelopathy; or

iii. progressive neurologic deficits;

(b) clinical findings: the employee exhibits one of the findings of subunit i, in combination with the test results of subunit ii:

i. subjective sensory symptoms in a dermatomal distribution which may include radiating pain, burning, numbness, tingling, or paresthesia, or objective clinical findings of nerve root specific motor deficit, reflex changes, or positive EMG; and

ii. medical imaging test results that correlate with the level of nerve root involvement consistent with both the subjective and objective findings.

(3) Second opinions: surgical decompression of a cervical nerve root is not indicated for the following conditions, unless a second opinion, if requested by the insurer, confirms that the surgery is indicated:

(a) repeat surgery at same level; or

(b) request for surgery at the C3-4 level.

C. Lumbar arthrodesis with or without instrumentation.

(1) Indications: one of the following conditions must be satisfied to indicate that the surgery is reasonably required:

(a) unstable lumbar vertebral fracture, ICD-9-CM codes 805.4, 805.5, 806.4, and 806.5; or

(b) for a second or third surgery only, documented reextrusion or redisplacement of lumbar intervertebral disc, ICD-9-CM code 722.10, after previous successful disc surgery at the same level and new lumbar radiculopathy with or without incapacitating back pain, ICD-9-CM code 724.4. Documentation under this item must include an MRI or CT scan or a myelogram; or

(c) traumatic spinal deformity including a history of compression (wedge) fracture or fractures, ICD-9-CM code 733.1, and demonstrated acquired kyphosis or scoliosis, ICD-9-CM codes 737.1, 737.10, 737.30, 737.41, and 737.43; or

(d) incapacitating low back pain, ICD-9-CM code 724.2, for longer than three months, and one of the following conditions involving lumbar segments L-3 and below is present:

i. for the first surgery only, degenerative disc disease, ICD-9-CM code 722.4, 722.5, 722.6, or 722.7, with postoperative documentation of instability created or found at the time of surgery, or positive discogram at one or two levels; or

ii. pseudoarthrosis, ICD-9-CM code 733.82;

iii. for the second or third surgery only, previously operated disc; or

iv. spondylolisthesis.

(2) Contraindications: lumbar arthrodesis is not indicated as the first primary surgical procedure for a new, acute lumbosacral disc herniation with unilateral radiating leg pain in a radicular pattern with or without neurological deficit.

(3) Retrospective review: when lumbar arthrodesis is performed to correct instability created during a decompression, laminectomy, or discectomy, approval for the arthrodesis will be based on a retrospective review of the operative report.

Subp. 3. **Upper extremity surgery.** Initial nonsurgical, surgical, and chronic management parameters for upper extremity disorders are found in part 5221.6300, subparts 1 to 16.

A. Rotator cuff repair:

(1) Diagnoses: rotator cuff surgery may be performed for the following diagnoses:

(a) rotator cuff syndrome of the

shoulder, ICD-9-CM code 726.1, and allied disorders: unspecified disorders of shoulder bursae and tendons, ICD-9-CM code 726.10, calcifying tendinitis of shoulder, ICD-9-CM code 726.11, bicipital tenosynovitis, ICD-9-CM code 726.12, and other specified disorders, ICD-9-CM code 726.19; or

(b) tear of rotator cuff, ICD-9-CM code 727.61.

(2) Criteria and indications: in addition to one of the diagnoses in subitem (1), both of the following conditions must be satisfied to indicate that surgery is reasonably required:

(a) response to nonsurgical care: the employee's condition has failed to improve with adequate initial nonsurgical treatment; and

(b) clinical findings: the employee exhibits:

i. severe shoulder pain and inability to elevate the shoulder; or

ii. weak or absent abduction and tenderness over rotator cuff, or pain relief obtained with an injection of anesthetic for diagnostic or therapeutic trial; and

iii. positive findings in arthrogram, MRI, or ultrasound, or positive findings on previous arthroscopy, if performed.

B. Acromioplasty:

(1) Diagnosis: acromioplasty may be performed for acromial impingement syndrome, ICD-9-CM codes 726.0 to 726.2.

(2) Criteria and indications: in addition to the diagnosis in subitem (1), both of the following conditions must be satisfied for acromioplasty:

(a) response to nonsurgical care: the employee's condition has failed to improve after adequate initial nonsurgical care; and

(b) clinical findings: the employee exhibits pain with active elevation from 90 to 130 degrees and pain at night, and a positive impingement test.

C. Repair of acromioclavicular or costoclavicular ligaments:

(1) Diagnosis: surgical repair of acromioclavicular or costoclavicular ligaments may be performed for acromioclavicular separation, ICD-9-CM codes 831.04 to 831.14.

(2) Criteria and indications: in addition to the diagnosis in subitem (1), the requirements of units (a) and (b) must be satisfied for repair of acromioclavicular or costoclavicular ligaments:

(a) response to nonsurgical care: the employee's condition includes:

i. failure to improve after at least a one-week trial period in a support brace; or

ii. separation cannot be reduced and held in a brace; or

iii. grade III separation has occurred; and

(b) clinical findings: the employee exhibits localized pain at the acromioclavicular joint and prominent distal clavicle and radiographic evidence of separation at the acromioclavicular joint.

D. Excision of distal clavicle:

(1) Diagnosis: excision of the distal clavicle may be performed for the following conditions:

(a) acromioclavicular separation, ICD-9-CM codes 831.01 to 831.14;

(b) osteoarthrosis of the acromioclavicular joint, ICD-9-CM codes 715.11, 715.21, and 715.31; or

(c) shoulder impingement syndrome.

(2) Criteria and indications: in addition to one of the diagnosis in subitem (1), the following conditions must be satisfied for excision of distal clavicle:

(a) response to nonsurgical care: the employee's condition fails to improve with adequate initial nonsurgical care; and

(b) clinical findings: the employee exhibits:

i. pain at the acromioclavicular joint, with aggravation of pain with motion of shoulder or carrying weight;

ii. confirmation that separation of AC joint is unresolved and prominent distal clavicle, or pain relief obtained with an injection of anesthetic for diagnostic/therapeutic trial; and

iii. separation at the

acromioclavicular joint with weight-bearing films, or severe degenerative joint disease at the acromioclavicular joint noted on X-rays.

E. Repair of shoulder dislocation or subluxation (any procedure):
   (1) Diagnosis: surgical repair of a shoulder dislocation may be performed for the following diagnoses:
      (a) recurrent dislocations, ICD-9-CM code 718.31;
      (b) recurrent subluxations; or
      (c) persistent instability following traumatic dislocation.
   (2) Criteria and indications: in addition to one of the diagnoses in subitem (1), the following clinical findings must exist for repair of a shoulder dislocation:
      (a) the employee exhibits a history of multiple dislocations or subluxations that inhibit activities of daily living; and
      (b) X-ray findings are consistent with multiple dislocations or subluxations.

F. Repair of proximal biceps tendon:
   (1) Diagnosis: surgical repair of a proximal biceps tendon may be performed for proximal rupture of the biceps, ICD-9-CM code 727.62 or 840.8.
   (2) Criteria and indications: in addition to the diagnosis in subitem (1), both of the following conditions must be satisfied for repair of proximal biceps tendon:
      (a) the procedure may be done alone or in conjunction with another indicated repair of the rotator cuff; and
      (b) clinical findings: the employee exhibits:
         i. complaint of pain that does not resolve with attempt to use arm; and
         ii. palpation of "bulge" in upper aspect of arm.

G. Epicondylitis. Specific requirements for surgery for epicondylitis are included in part 5221.6300, subpart 11.

H. Tendinitis. Specific requirements for surgery for tendinitis are included in part 5221.6300, subpart 12.

I. Nerve entrapment syndromes. Specific requirements for nerve entrapment syndromes are included in part 5221.6300, subpart 13.

J. Muscle pain syndromes. Surgery is not indicated for muscle pain syndromes.

K. Traumatic sprains and strains. Surgery is not indicated for the treatment of traumatic sprains and strains, unless there is clinical evidence of complete tissue disruption. Patients with complete tissue disruption may need immediate surgery.

Subp. 4. **Lower extremity surgery.**

A. Anterior cruciate ligament (ACL) reconstruction:
   (1) Diagnoses: surgical repair of the anterior cruciate ligament, including arthroscopic repair, may be performed for the following diagnoses:
      (a) old disruption of anterior cruciate ligament, ICD-9-CM code 717.83; or
      (b) sprain of cruciate ligament of knee, ICD-9-CM code 844.2.
   (2) Criteria and indications: in addition to one of the diagnoses in subitem (1) the conditions in units (a) to (c) must be satisfied for anterior cruciate ligament reconstruction. Pain alone is not an indication:
      (a) the employee gives a history of instability of the knee described as "buckling or giving way" with significant effusion at time of injury, or description of injury indicates a rotary twisting or hyperextension occurred;
      (b) there are objective clinical findings of positive Lachman's sign, positive pivot shift, and/or positive anterior drawer; and
      (c) there are positive diagnostic findings with arthrogram, MRI, or arthroscopy and there is no evidence of severe compartmental arthritis.

B. Patella tendon realignment or Maquet procedure:
   (1) Diagnosis: patella tendon realignment may be performed for dislocation of patella, open, ICD-9-CM code 836.3, or closed, ICD-9-CM code 836.4, or chronic residuals of dislocation.
   (2) Criteria and indications: in addition to the diagnosis in subitem (1), all of the following conditions must be satisfied for a patella tendon realignment:
      (a) the employee gives a history of rest pain as well as pain with patellofemoral movement, and recurrent effusion, or recurrent dislocation; and
      (b) there are objective clinical findings

of patellar apprehension, synovitis, lateral tracking, or Q angle greater than 15 degrees.

C. Knee joint replacement:

(1) Diagnoses: knee joint replacement may be performed for degeneration of articular cartilage or meniscus of knee, ICD-9-CM codes 717.1 to 717.4.

(2) Criteria and indications: in addition to the diagnosis in subitem (1), the following conditions must be satisfied for a knee joint replacement:

(a) clinical findings: the employee exhibits limited range of motion, night pain in the joint or pain with weight-bearing, and no significant relief of pain with an adequate course of initial nonsurgical care; and

(b) diagnostic findings: there is significant loss or erosion of cartilage to the bone, and positive findings of advanced arthritis and joint destruction with standing films, MRI, or arthroscopy.

D. Fusion; ankle, tarsal, metatarsal:

(1) Diagnoses: fusion may be performed for the following conditions:

(a) malunion or nonunion of fracture of ankle, tarsal, or metatarsal, ICD-9-CM code 733.81 or 733.82; or

(b) traumatic arthritis (arthropathy), ICD-9-CM code 716.17.

(2) Criteria and indications: in addition to one of the diagnoses in subitem (1), the following conditions must be satisfied for an ankle, tarsal, or metatarsal fusion:

(a) initial nonsurgical care: the employee must have failed to improve with an adequate course of initial nonsurgical care which included:

i. immobilization which may include casting, bracing, shoe modification, or other orthotics; and

ii. anti-inflammatory medications;

(b) clinical findings:

i. the employee gives a history of pain which is aggravated by activity and weight-bearing, and relieved by xylocaine injection; and

ii. there are objective findings on physical examination of malalignment or specific joint line tenderness, and decreased range of motion; and

(c) diagnostic findings: there are medical imaging studies confirming the presence of:

i. loss of articular cartilage and joint space narrowing;

ii. bone deformity with hypertrophic spurring and sclerosis; or

iii. nonunion or malunion of a fracture.

E. Lateral ligament ankle reconstruction:

(1) Diagnoses: ankle reconstruction surgery involving the lateral ligaments may be performed for the following conditions:

(a) chronic ankle instability, ICD-9-CM code 718.87; or

(b) grade III sprain, ICD-9-CM codes 845.0 to 845.09.

(2) Criteria and indications: in addition to one of the diagnoses in subitem (1), the following conditions must be satisfied for a lateral ligament ankle reconstruction:

(a) initial nonsurgical care: the employee must have received an adequate course of initial nonsurgical care including, at least:

i. immobilization with support, cast, or ankle brace, followed by

ii. a physical rehabilitation program; and

(b) clinical findings:

i. the employee gives a history of ankle instability and swelling; and

ii. there is a positive anterior drawer sign on examination; or

iii. there are positive stress X-rays identifying motion at ankle or subtalar joint with at least a 15 degree lateral opening at the ankle joint, or demonstrable subtalar movement, and negative to minimal arthritic joint changes on X-ray, or ligamentous injury is shown on MRI scan.

(3) Prosthetic ligaments: prosthetic ligaments are not indicated.

(4) Implants: requests for any plastic implant must be confirmed by a second opinion.

(5) Calcaneus osteotomy: requests for

calcaneus osteotomies must be confirmed by a second opinion.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.6600 CHRONIC MANAGEMENT.

Subpart 1. **Scope.** This part applies to chronic management of all types of physical injuries, even if the injury is not specifically governed by parts 5221.6200 to 5221.6500. If a patient continues with symptoms and physical findings after all appropriate initial nonsurgical and surgical treatment has been rendered, and if the patient's condition prevents the resumption of the regular activities of daily life including regular vocational activities, then the patient may be a candidate for chronic management. The purpose of chronic management is twofold: the patient should be made independent of health care providers in the ongoing care of a chronic condition; and the patient should be returned to the highest functional status reasonably possible.

A. Personality or psychological evaluation may be indicated for patients who are candidates for chronic management. The treating health care provider may perform this evaluation or may refer the patient for consultation with another health care provider in order to obtain a psychological evaluation. These evaluations may be used to assess the patient for a number of psychological conditions which may interfere with recovery from the injury. Since more than one of these psychological conditions may be present in a given case, the health care provider performing the evaluation must consider all of the following:
   (1) Is symptom magnification occurring?
   (2) Does the patient exhibit an emotional reaction to the injury, such as depression, fear, or anger, which is interfering with recovery?
   (3) Are there other personality factors or disorders which are interfering with recovery?
   (4) Is the patient chemically dependent?
   (5) Are there any interpersonal conflicts interfering with recovery?
   (6) Does the patient have a chronic pain syndrome or psychogenic pain?
   (7) In cases in which surgery is a possible treatment, are psychological factors likely to interfere with the potential benefit of the surgery?

B. Any of the chronic management modalities of subpart 2 may be used singly or in combination as part of a program of chronic management.

C. No further passive treatment modalities or therapeutic injections are indicated, except as otherwise provided in parts 5221.6200, subpart 3, item B; 5221.6205, subpart 3, item B; 5221.6210, subpart 3, item B; and 5221.6300, subpart 3, item B.

D. No further diagnostic evaluation is indicated unless there is the development of symptoms or physical findings which would in themselves warrant diagnostic evaluation.

E. A program of chronic management must include appropriate means by which use of scheduled medications can be discontinued or severely limited.

Subp. 2. **Chronic management modalities.** The health care provider must provide prior notification of the chronic management modalities in items B to F according to part 5221.6050, subpart 9. Prior notification is not required for home-based exercises in item A, unless durable medical equipment is prescribed for home use. The insurer may not deny payment for a program of chronic management that the insurer has previously authorized for an employee, either in writing or by routine payment for services, without providing the employee and the employee's health care provider with at least 30 days' notice of intent to apply any of the chronic management parameters in part 5221.6600 to future treatment. The notice must include the specific parameters that will be applied in future determinations of compensability by the insurer.

A. Home-based exercise programs consist of aerobic conditioning, stretching and flexibility exercises, and strengthening exercises done by the patient on a regular basis at home without the need for supervision or attendance by a health care provider. Maximum effectiveness may require the use of certain durable medical equipment that may be prescribed and reimbursed within any applicable treatment parameters in parts 5221.6200 to 5221.6305.
   (1) Indications: exercise is necessary on a long-term basis to maintain function.
   (2) Requirements: the patient should receive specific instruction and training in the exercise program. Repetitions, durations, and frequencies of exercises must be specified. Any durable medical equipment needed must be prescribed in advance and the insurer must be given prior notification of proposed purchase.
   (3) Treatment period, one to three visits

for instruction and monitoring.

B. Health clubs:

(1) Indications: the patient is deconditioned and requires a structured environment to perform prescribed exercises. The health care provider must document the reasons why reconditioning cannot be accomplished with a home-based program of exercise.

(2) Requirements: the program must have specific prescribed exercises stated in objective terms, for example "30 minutes riding stationary bicycle three times per week." There must be a specific set of prescribed activities and a specific timetable of progression in those activities, designed so that the goals can be achieved in the prescribed time. There must be a prescribed frequency of attendance and the patient must maintain adequate documentation of attendance. There must be a prescribed duration of attendance.

(3) Treatment period, 13 weeks. Additional periods of treatment require additional prior notification of the insurer. Additional periods of treatment at a health club are not indicated unless there is documentation of attendance and progression in activities during the preceding period of treatment. If the employer has an appropriate exercise facility on its premises the insurer may mandate use of that facility instead of providing a health club membership.

C. Computerized exercise programs utilize computer controlled exercise equipment that allows for the isolation of specific muscle groups and the performance of graded exercise designed to increase strength, tone, flexibility, and range of motion. In combination with computerized range of motion or strength measuring tests, these programs allow for quantitative measurement of effort and progress.

(1) Indications: the patient is deconditioned and requires a structured environment to accomplish rehabilitation goals. The health care provider must document the reasons why reconditioning cannot be accomplished with a home-based program of exercise.

(2) Requirements: the program must have specific goals stated in objective terms, for example "improve strength of back extensors 50 percent." There must be a specific set of prescribed activities and a specific timetable of progression in those activities, designed so that the goals can be achieved in the prescribed time. There must be a prescribed frequency and duration of attendance.

(3) Treatment period, six weeks. Additional periods of treatment require additional prior notification of the insurer. Additional periods of treatment are not indicated unless there is documentation of attendance and progression in activities during the preceding period of treatment.

D. Work conditioning and work hardening programs are intensive, highly structured, job oriented, individualized treatment plans based on an assessment of the patient's work setting or job demands, and designed to maximize the patient's return to work. These programs must include real or simulated work activities. Work conditioning is designed to restore an individual's neuromusculoskeletal strength, endurance, movement, flexibility, and motor control, and cardiopulmonary function. Work conditioning uses physical conditioning and functional activities related to the individual's work. Services may be provided by one discipline of health care provider. Work hardening is designed to restore an individual's physical, behavioral, and vocational functions within an interdisciplinary model. Work hardening addresses the issues of productivity, safety, physical tolerances, and work behaviors. An interdisciplinary team includes professionals qualified to evaluate and treat behavioral, vocational, physical, and functional needs of the individual.

(1) Indications: the patient is disabled from usual work and requires reconditioning for specific job tasks or activities and the reconditioning cannot be done on the job. The health care provider must document the reasons why work hardening cannot be accomplished through a structured return to work program. Work conditioning is indicated where only physical and functional needs are identified. Work hardening is indicated where, in addition to physical and functional needs, behavioral and vocational needs are also identified that are not otherwise being addressed.

(2) Requirements: the program must have specific goals stated in terms of work activities, for example "able to type for 30 minutes." There must be an individualized program of activities and the activities must be chosen to simulate required work activities or to enable the patient to participate in simulated work activities. There must be a specific timetable of progression in those activities, designed so that the goals can be achieved in the prescribed time. There must be a set frequency and hours of attendance and the program must maintain adequate documentation of attendance. There must be a set duration of attendance. Activity restrictions must be identified at completion of the program.

(3) Treatment period, six weeks. Additional periods of treatment require prior notification of the insurer. Additional periods of treatment at a work hardening program or work conditioning program are not indicated unless there is documentation of attendance and progression in activities during the preceding period of treatment or unless there has been a change in the patient's targeted return to work job which necessitates a redesign of the program.

E. Chronic pain management programs consist of multidisciplinary teams who provide coordinated, goal-oriented services to reduce pain disability, improve functional status, promote return to work, and decrease dependence on the health system of persons with chronic pain syndrome. Pain management programs must provide physical rehabilitation, education on pain, relaxation training, psychosocial counseling, medical evaluation, and, if indicated, chemical dependency evaluation. The program of treatment must be individualized and based on an organized evaluative process for screening and selecting patients. Treatment may be provided in an inpatient setting, outpatient setting, or both as appropriate.

(1) Indications: the patient is diagnosed as having a chronic pain syndrome.

(2) Requirements: an admission evaluation must be performed by a doctor, and a licensed mental health professional, each with at least two years experience in evaluation of chronic pain patients and chronic pain treatment, or one year of formal training in a pain fellowship program. The evaluation must confirm the diagnosis of chronic pain syndrome and a willingness and ability of the patient to benefit from a pain management program. There must be a specific set of prescribed activities and treatments, and a specific timetable of progression in those activities. There must be a set frequency and hours of attendance and the program must maintain adequate documentation of attendance. There must be a set duration of attendance.

(3) Treatment period: for initial treatment, a maximum of 20 eight-hour days, though fewer or shorter days can be used, and a maximum duration of four weeks no matter how many or how long the days prescribed. For aftercare, a maximum of 12 sessions is allowed. Only one completed pain management program is indicated for an injury.

F. Individual or group psychological or psychiatric counseling.

(1) Indications: a personality or psychosocial evaluation has revealed one or more of the problems listed in subpart 1, item A, which interfere with recovery from the physical injury, but the patient does not need or is not a candidate for a pain management program.

(2) Requirements: there must be a specific set of goals based on the initial personality or psychosocial evaluation and a timetable for achieving those goals within the prescribed number of treatment or therapy sessions. There must be a prescribed frequency of attendance and the treating health care provider must maintain adequate documentation of attendance. There must be a prescribed duration of treatment.

(3) Treatment period: a maximum of 12 sessions. Only one completed program of individual or group psychological or psychiatric counseling is indicated for an injury.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412

5221.8900 DISCIPLINARY ACTION; PENALTIES.

Subpart 1. **Discipline.** A health care provider is subject to disciplinary action under Minnesota Statutes, section 176.103, for failure to comply with the requirements in parts 5221.6010 to 5221.6600 or the violation of any of the provisions of Minnesota Statutes, chapter 176, or other rules or orders issued pursuant thereto.

Subp. 2. **Complaints.** Complaints about professional behavior or services of health care providers relating to noncompliance with established workers' compensation laws, rules, or orders shall be made in writing to the commissioner. The commissioner or a designee shall assist a person in filing a complaint, if necessary. A complaint may be submitted by any person who becomes aware of a violation, including designees of the commissioner, administrative law judges, and presiding officials at judicial proceedings.

Subp. 3. **Review and investigation.** The commissioner shall investigate all complaints to determine whether there has been a violation of established workers' compensation laws, rules, or orders. The commissioner may refer a matter to another agency that has jurisdiction over the provider's license or conduct, or to an agency that has prosecuting authority in the event of suspected theft or fraud or to a peer review organization for an opinion. Absent suspected theft or fraud, providing treatment outside a parameter set forth in parts 5221.6020 to 5221.6500 shall not in itself result in a referral to a prosecuting authority.

If an investigation indicates that discipline may be warranted, the commissioner shall determine whether the violation involves inappropriate, unnecessary, or excessive treatment, or whether the violation involves other statutes or rules. The commissioner shall take appropriate action according to subpart 6, 7, or 8.

Subp. 4. **Cooperation with disciplinary proceedings.** A health care provider who is the subject of a complaint investigated by the commissioner under Minnesota Statutes, section 176.103, shall cooperate fully with the investigation. Cooperation includes, but is not limited to, responding fully and promptly to any questions raised by the commissioner relating to the subject of the investigation and providing copies of records, reports, logs, data, and cost information as requested by the commissioner to assist in the investigation. The health care provider shall not charge for services but may charge for the cost of copies of medical records, at the rate set in part 5219.0300, subpart 2, for this investigation. Cooperation includes attending, in person, a meeting scheduled by the commissioner for the purposes of subpart 5. This subpart does not limit the health care provider's right to be represented by an attorney.

Subp. 5. **In-person meeting.** When conferring with the parties to a complaint is deemed appropriate, the commissioner shall schedule a meeting for the purpose of clarification of issues, obtaining information, instructing parties to the complaint, or for the purpose of resolving disciplinary issues.

Subp. 6. **Resolution by instruction or written agreement.** The commissioner may resolve a complaint through instruction of a provider, or may enter into stipulated consent agreements regarding discipline with a provider in lieu of initiating a contested case or medical services review board proceeding.

Subp. 7. **Inappropriate, unnecessary, or excessive treatment.**

A. Except as otherwise provided in subparts 3 and 6, if the suspected violation involves a treatment standard set forth in parts 5221.6020 to 5221.6500 the commissioner must refer the health care provider to the medical services review board for review under Minnesota Statutes, section 176.103, subdivision 2, if:
   (1) the situation requires medical expertise in matters beyond the department's general scope;
   (2) wherever possible under Minnesota Statutes, chapter 176, a final determination has been made by a workers' compensation presiding official, or provider licensing or registration body that the medical treatment in issue was inappropriate, unnecessary, or excessive; and
   (3) a pattern of consistently providing inappropriate, unnecessary, or excessive services exists for three or more employees.

B. Where the medical service review board's report to the commissioner indicates a violation of treatment standards or other inappropriate, unnecessary, or excessive treatment the commissioner shall order a sanction. Sanctions may include, but are not limited to, a warning; a fine of up to $200 per violation; a restriction on providing treatment; requiring preauthorization by the board, the payor, or the commissioner for a plan of treatment; and suspension from receiving compensation for the provision of treatment.

C. Within 30 days of receipt of the order of sanction, the health care provider may

request in writing a review by the commissioner of the sanction in accordance with the procedure set forth in Minnesota Statutes, section 176.103, subdivision 2a. Within 30 days following receipt of the compensation judge's decision reviewing the sanction, a provider may petition the workers' compensation court of appeals for review according to the procedures in Minnesota Statutes, section 176.103, subdivision 2a.

Subp. 8. **Violations of statutes and rules other than those involving inappropriate, unnecessary, or excessive treatment.** If the suspected violation warranting discipline involves a statute or rule other than treatment standards, the commissioner shall initiate a contested case hearing for disciplinary action under Minnesota Statutes, section 176.103, subdivision 3, paragraph (b), and the administrative procedure act in Minnesota Statutes, chapter 14.

A. Upon petition of the commissioner and following receipt of the recommendation of the administrative law judge, the medical services review board may issue a fine of up to $200 for each violation, or disqualify or suspend the health care provider from receiving payment for services, according to Minnesota Statutes, section 176.103, subdivision 3, paragraph (b).

B. Within 30 days after service of the board's decision, a provider may petition the workers' compensation court of appeals for review according to Minnesota Statutes, section 176.421.

Subp. 9. **Penalties.** In addition to disciplinary action under subparts 1 to 8, the commissioner may assess a penalty under part 5220.2810 if a health care provider fails to release existing written medical data according to Minnesota Statutes, section 176.138. A penalty may also be assessed under part 5220.2830 and Minnesota Statutes, section 176.231, subdivision 10, if a health care provider fails to provide reports required by part 5221.0410.

STAT AUTH: MS s 176.103; 176.83
HIST: 19 SR 1412